AMENDED IN SENATE JUNE 4, 2007

AMENDED IN SENATE APRIL 25, 2007

AMENDED IN SENATE APRIL 16, 2007

SENATE BILL No. 801

Introduced by Senator Ridley-Thomas
(Principal coauthor: Assembly Member Eng)

February 23, 2007

An act ~~and~~ to amend Section 101 of, to amend, renumber, and add Sections 1000, 1001, 1002, 1003, 1004, and 1005 of, and to add Sections 1006, 1006.5, 1007, 1008, 1009, 1010, 1012, 1012.5, 1013, 1014, 1015, 1016, 1017, 1018, 1018.5, and 1019 to, the Business and Professions Code, and to amend an initiative act entitled "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation thereof, and repealing all acts and parts of acts inconsistent therewith" approved by electors November 7, 1922, by amending Sections 1, 2, 3, 4, 6, and 14 thereof and adding ~~Section~~ *Sections* 1.5, 6.5, and 18.5 thereto, ~~relating to chiropractors, and declaring the urgency thereof, to take effect immediately.~~ *relating to chiropractors.*

LEGISLATIVE COUNSEL'S DIGEST

SB 801, as amended, Ridley-Thomas. Chiropractors.

Existing law, the Chiropractic Act enacted by initiative, provides for the licensing and regulation of chiropractors by the State Board of Chiropractic Examiners, which is composed of 7 members appointed by the Governor. Under the act, the board is required to employ an executive officer. Existing law establishes the Department of Consumer

Affairs in the State and Consumer Services Agency, and the department is composed of various boards that regulate members of professions, including the healing arts, and vocations.

This bill would include the board in the Department of Consumer Affairs, would add 2 public members to the board, to be appointed by the Senate Committee on Rules and the Speaker of the Assembly, and would require the members appointed by the Governor to be confirmed by the Senate. The bill would exempt the executive officer from civil service, and would specify that other employees of the board are subject to those provisions. The bill would also specify that protection of the public is the highest priority of the board. The bill would provide that the Attorney General be legal counsel for the board, and that the board be subject to specified meeting and disclosure requirements. The bill would also require that all appropriations from the State Board of Chiropractic Examiners' Fund be made by the Legislature in the annual Budget Act. The bill would allow the Legislature to amend, repeal, or add the act by a majority vote.

Because the bill would amend an initiative act, the bill would require certain of its provisions be submitted to the voters for approval *on the June 3, 2008, primary election ballot. The bill would state the Legislature's intent to appropriate licensure revenues from the State Board of Chiropractic Examiners' Fund for specified costs incurred by the Secretary of State in placing these provisions on the ballot.* The bill would also codify the provisions of the Chiropractic Act, as amended by this act, which codification would be operative only if the amendments to the initiative act are approved by the voters.

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: ~~⅔~~ *majority*. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 101 of the Business and Professions Code is amended to read:

101. The department is comprised of:

(a) The Dental Board of California.

(b) The Medical Board of California.

(c) The State Board of Optometry.

(d) The California State Board of Pharmacy.

(e) The Veterinary Medical Board.
(f) The California Board of Accountancy.
(g) The California Architects Board.
(h) The Bureau of Barbering and Cosmetology.
(i) The Board for Professional Engineers and Land Surveyors.
(j) The Contractors' State License Board.
(k) The Bureau for Private Postsecondary and Vocational Education.
(*l*) The Structural Pest Control Board.
(m) The Bureau of Home Furnishings and Thermal Insulation.
(n) The Board of Registered Nursing.
(o) The Board of Behavioral Sciences.
(p) The State Athletic Commission.
(q) The Cemetery and Funeral Bureau.
(r) The State Board of Guide Dogs for the Blind.
(s) The Bureau of Security and Investigative Services.
(t) The Court Reporters Board of California.
(u) The Board of Vocational Nursing and Psychiatric Technicians.
(v) The Landscape Architects Technical Committee.
(w) The Bureau of Electronic and Appliance Repair.
(x) The Division of Investigation.
(y) The Bureau of Automotive Repair.
(z) The State Board of Registration for Geologists and Geophysicists.
(aa) The Respiratory Care Board of California.
(ab) The Acupuncture Board.
(ac) The Board of Psychology.
(ad) The California Board of Podiatric Medicine.
(ae) The Physical Therapy Board of California.
(af) The Arbitration Review Program.
(ag) The Committee on Dental Auxiliaries.
(ah) The Hearing Aid Dispensers Bureau.
(ai) The Physician Assistant Committee.
(aj) The Speech-Language Pathology and Audiology Board.
(ak) The California Board of Occupational Therapy.
(a*l*) The Osteopathic Medical Board of California.
(am) The Bureau of Naturopathic Medicine.
(an) The State Board of Chiropractic Examiners.

(ao) Any other boards, offices, or officers subject to its jurisdiction by law.

SEC. 2. Section 1000 of the Business and Professions Code is amended and renumbered to read:

1030. The law governing practitioners of chiropractic is found in this chapter and in an initiative act entitled "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation hereof, and repealing all acts and parts of acts inconsistent herewith," adopted by the electors November 7, 1922.

SEC. 3. Section 1000 is added to the Business and Professions Code, to read:

1000. A board is hereby created to be known as the "State Board of Chiropractic Examiners," hereinafter referred to as the board. The board shall consist of nine members. Seven members shall be appointed by the Governor, subject to confirmation by the Senate, two of whom shall be public members. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint one public member. Each member shall be a citizen of the United States and shall have been a resident of California for five years. Each licensee member shall have had at least five years of licensure in this state prior to appointment. Each licensee member must have pursued a resident course in an approved chiropractic school or college, and must be a graduate thereof and hold a diploma therefrom.

Not more than two persons shall serve simultaneously as members of the board, whose first diplomas were issued by the same school or college of chiropractic, nor shall more than two members be residents of any one county of the state. And no person who is, or within one year of the proposed appointment has been, an administrator, policy board member, or paid employee of any chiropractic school or college shall be eligible for appointment to the board. Each member of the board shall receive a per diem in the amount provided in Section 103 for each day during which he or she is actually engaged in the discharge of his or her duties, together with his or her actual and necessary travel expenses incurred in connection with the performance of the duties of his or her office, and the per diem, travel expenses and other incidental expenses of the board or of its members shall be paid out of the

funds of the board hereinafter defined and not from the state's taxes.

The Legislature may, upon review, repeal this section and reconstitute the board.

SEC. 4. Section 1001 of the Business and Professions Code is amended and renumbered to read:

1031. In each year, the State Board of Chiropractic Examiners shall compile and may thereafter publish and sell a complete directory of all persons within the state who hold unforfeited and unrevoked certificates to practice chiropractic, and whose certificate in any manner authorizes the treatment of human beings for diseases, injuries, deformities, or any other physical or mental conditions.

The directory shall contain:

(a) The following information concerning each such person:

~~1.~~

(1) The name and address of the person.

~~2.~~

(2) The names and symbols indicating his or her title.

~~3.~~

(3) The school, attendance at which qualified him or her for examination or admission to practice.

~~4.~~

(4) The date of the issuance of his or her certificate.

(b) The annual report of the board for the prior year.

(c) Information relating to other laws of this state and the United States that the board determines to be of interest to persons licensed to practice chiropractic.

(d) Copies of opinions of the Attorney General relating to the practice of chiropractic.

(e) A copy of the provisions of this chapter.

The board may require the persons designated in this section to furnish information as it may deem necessary to enable it to compile the directory. Every person so designated shall report immediately each and every change of residence, giving both his or her old and new address.

The directory shall be evidence of the right of the persons named in it to practice unless his or her certificate to practice chiropractic has been canceled, suspended or revoked. The board may collect from each person who voluntarily subscribes to or purchases a

copy of the directory the cost of publication and distribution thereof; except that one copy of the directory shall be distributed without charge to each certificate holder of the board.

SEC. 5. Section 1001 is added to the Business and Professions Code, to read:

1001. Protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with the other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 6. Section 1002 of the Business and Professions Code is amended and renumbered to read:

1032. Whenever any person has engaged in or is about to engage in any acts or practices that constitute or will constitute an offense against this chapter or rules or regulations adopted pursuant to this chapter, the superior court of any county, on application of the State Board of Chiropractic Examiners, or on application of 10 or more licensees of the State Board of Chiropractic Examiners may issue an injunction or other appropriate order restraining that conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 7. Section 1002 is added to the Business and Professions Code, to read:

1002. Each appointment to the board shall be for the term of four years, except that an appointment to fill a vacancy shall be for the unexpired term only. Each member shall serve until his or her successor has been appointed and qualified or until one year has elapsed since the expiration of his or her term whichever first occurs. No person shall serve more than two consecutive terms on the board nor be eligible for appointment thereafter until the expiration of four years from the expiration of the second consecutive term, effective January 2, 1974. The Governor may remove a member from the board after receiving sufficient proof of the inability or misconduct of the member.

SEC. 8. Section 1003 of the Business and Professions Code is amended and renumbered to read:

1033. (a) Except as otherwise allowed by law, the employment of runners, cappers, steerers, or other persons to procure patients constitutes unprofessional conduct.

(b) A licensee of the State Board of Chiropractic Examiners shall have his or her license to practice revoked for a period of 10 years upon a second conviction for violating any of the following provisions or upon being convicted of more than one count of violating any of the following provisions in a single case: Section 650 of this code, Section 750 or 1871.4 of the Insurance Code, or Section 549 or 550 of the Penal Code. After the expiration of this 10-year period, an application for license reinstatement may be made pursuant to subdivision (c) of Section 1010.

SEC. 9. Section 1003 is added to the Business and Professions Code, to read:

1003. The board shall elect a chairman and a vice chairman and a secretary to be chosen from the members of the board. The board shall appoint a person exempt from civil service, by and with the approval of the Director of Consumer Affairs, to be designated as an executive officer. Elections of the officers shall occur annually at the January meeting of the board. A majority of the board shall constitute a quorum.

It shall require the affirmative vote of five members of the board to carry any motion or resolution, to adopt any rule, or to authorize the issuance of any license provided for in this chapter. The executive officer shall receive a salary to be fixed by the board, with the approval of the Director of Finance, together with his or her actual and necessary traveling expenses incurred in connection with the performance of the duties of his or her office, and shall give bond to the state in a sum and with such sureties as the board may deem proper. He or she shall keep a record of the proceedings of the board, which shall at times during business hours be open to the public for inspection. He or she shall keep a true and accurate account of all funds received and of all expenditures incurred or authorized by the board, and on the first day of December of each year he or she shall file with the Governor, or his or her designee, a report of all receipts and disbursements and of the proceedings of the board for the preceding fiscal year.

SEC. 10. Section 1004 of the Business and Professions Code is amended and renumbered to read:

1034. The State Board of Chiropractic Examiners shall investigate any licensee against whom an information or indictment has been filed that alleges a violation of Section 550 of the Penal

Code or Section 1871.4 of the Insurance Code, if the district attorney does not otherwise object to initiating an investigation.

SEC. 11. Section 1004 is added to the Business and Professions Code, to read:

1004. Powers of board. The board shall have power:

(a) To adopt a seal, which shall be affixed to all licenses issued by the board.

(b) To adopt from time to time rules and regulations as the board may deem proper and necessary for the performance of its work, the effective enforcement and administration of this chapter, the establishment of educational requirements for license renewal, and the protection of the public. These rules and regulations shall be adopted, amended, repealed and established in accordance with the provisions of Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code as it now reads or as it may be hereafter amended by the Legislature.

(c) To examine applicants and to issue and revoke licenses to practice chiropractic, as provided in this chapter.

(d) To summon witnesses and to take testimony as to matters pertaining to its duties; and each member shall have power to administer oaths and take affidavits.

(e) To do any and all things necessary or incidental to the exercise of the powers and duties granted or imposed by this chapter.

(f) To determine minimum requirements for teachers in chiropractic schools and colleges.

(g) To approve chiropractic schools and colleges whose graduates may apply for licenses in this state. The following shall be eligible for approval:

(1) Any chiropractic school or college having status with the accrediting agency and meeting the requirements of Section 1005 and the rules and regulations adopted by the board.

(2) Any chiropractic school or college initially commencing instruction prior to November 2, 1976, provided that the school or college meets the requirements of Section 1005 and the rules and regulations adopted by the board and provided that the school or college attained status with the accrediting agency within a time period commencing on November 7, 1978, and ending March 1, 1980.

(3) Any chiropractic school or college initially commencing instruction subsequent to November 2, 1976, provided that the school or college meets the requirements of Section 1005 and the rules and regulations adopted by the board and provided that the school or college attains status with the accrediting agency within a time period not exceeding three years following the commencement of instruction.

Upon submission of evidence satisfactory to the board that the accrediting agency has unreasonably denied status to a chiropractic school or college approved under paragraph (2) or (3) of this subdivision by not considering the application for status submitted by that school or college in a timely manner, by denying the application for status submitted by that school or college without good cause, or by imposing arbitrary and capricious additional requirements upon that school or college as conditions for the attainment of status, the board shall grant an extension of the time period for the attainment of status specified in the paragraph under which that school or college is approved, as it applies to that school or college, of at least six months but no more than one year. Prior to the expiration of the extension or of any additional extension the board grants, the board shall determine whether that school or college has been unreasonably denied status by the accrediting agency for any of the reasons specified in the immediately preceding sentence during the extension. Should the board determine that unreasonable denial of status during the extension has occurred, the board shall grant an additional extension of the time period for the attainment of status, as it applies to that school or college, of at least six months but no more than one year.

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(h) As used in this section, "accrediting agency" means (1) the Accrediting Commission of the Council on Chiropractic Education, other chiropractic school and college accrediting agencies as may be recognized by the United States Commissioner of Education, or chiropractic school and college accrediting agencies employing equivalent standards for accreditation as determined by the board, (2) if the commission ceases to exist or ceases to be recognized by the commissioner, a chiropractic school and college accrediting agency as may be designated by the board or chiropractic school and college accrediting agencies employing equivalent standards for accreditation as determined by the board, or (3) if the

commission ceases to exist or ceases to be recognized by the commissioner, no other accrediting agency is recognized by the commissioner, and no accrediting agency is acceptable to the board, the board.

As used in this section, "status" means correspondent status, status as a recognized candidate for accreditation, accredited status, or other similar status as may be adopted and used by the accrediting agency.

As used in this section, "in a timely manner" means within the time deadlines as may be established by the accrediting agency for submission of applications, consideration of applications submitted, acceptance or rejection of applications submitted, and other similar functions, as those time deadlines are interpreted by the board.

As used in this section, "without good cause" means not in accordance with rules and regulations that may be established by the accrediting agency as conditions for the attainment of status, as those rules and regulations are interpreted by the board.

As used in this section, "arbitrary and capricious additional requirements" means requirements that may be imposed by the accrediting agency as conditions for the attainment of status during the time period specified for the attainment of status by a chiropractic school or college that, in the board's judgment, cannot be satisfied within the time period or do not serve to improve the educational standards or quality of the school or college.

~~(h)~~

(i) The board may employ any investigators, clerical assistants, commissioners on examination, and other employees as it may deem necessary to carry into effect the provisions of this chapter, and shall prescribe the duties of those employees. Persons employed pursuant to this subdivision shall be subject to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 5 of the Government Code).

SEC. 12. Section 1005 of the Business and Professions Code is amended and renumbered to read:

1035. The provisions of Sections 12.5, 23.9, 29.5, 30, 31, 35, 104, 114, 115, 119, 121, 121.5, 125, 125.6, 136, 137, 140, 141, 143, 163.5, 461, 462, 475, 480, 484, 485, 487, 489, 490, 490.5, 491, 494, 495, 496, 498, 499, 510, 511, 512, 701, 702, 703, 704,

710, 716, 730.5, 731, and 851 are applicable to persons licensed by the State Board of Chiropractic Examiners.

SEC. 13. Section 1005 is added to the Business and Professions Code, to read:

1005. It shall be unlawful for any person to practice chiropractic in this state without a license to do so. Any person wishing to practice chiropractic in this state shall make application to the board 45 days prior to any meeting thereof, in a form and manner provided by the board. Proof of graduation from an approved chiropractic school or college, as defined in Section 1004, shall be received by the board 15 days prior to any meeting of the board. Each application shall be accompanied by a license fee of not more than one hundred dollars ($100), as determined by the board. Except as otherwise provided in this chapter, each applicant shall present to the board at the time of making an application a diploma from a high school and a transcript of 60 prechiropractic college credits satisfactory to the board, or proof, satisfactory to the board, of education equivalent in training power to such high school and college courses.

The schedule of minimum educational requirements to enable any person to practice chiropractic in this state shall be as provided in Section 5 of the Chiropractic Act, except as otherwise provided in this chapter:

Any applicant who had matriculated at a chiropractic college prior to the effective date of the amendments to Section 5 of the Chiropractic Act submitted to the electors by the ~~1977–1978~~ *1977–78* Regular Session of the Legislature shall meet all requirements that existed immediately prior to the effective date of those amendments but need not meet the change in requirements made by those amendments.

SEC. 14. Section 1006 is added to the Business and Professions Code, to read:

1006. (a) The office of the board shall be in the City of Sacramento. Suboffices may be established in Los Angeles and San Francisco, and any records as may be necessary may be transferred temporarily to the suboffices. Legal proceedings against the board may be instituted in any one of the three cities.

(b) All meetings of the board shall be conducted in accordance with the provisions of the Bagley-Keene Open Meeting Act (Article

9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(c) The board shall meet as a board of examiners at least twice each calendar year, at times and places as may be found necessary for the performance of its duties.

(d) The board shall comply with the requirements of Chapter 22.5 (commencing with Section 7528) of Division 7 of Title 1 of the Government Code and with the provisions of Article 10 (commencing with Section 11364) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(e) Examinations shall be written, oral, and practical, covering chiropractic as taught in chiropractic schools or colleges, designed to ascertain the fitness of the applicant to practice chiropractic. The examination shall include at least each of the subjects as set forth in Section 5 of the Chiropractic Act. Identity of the applicants shall not be disclosed to the examiners until after examinations have been given final grades. A license shall be granted to any applicant who makes a general average of 75 percent, and does not fall below 60 percent in more than two subjects or branches of the examination and receives a 75 percent score in all parts of the practical examination as designated by the board. Any applicant failing to make the required grade shall be given credit for the branches passed, and may, without further cost, take the examination at the next regular examination on the subjects in which he or she failed. For each year of actual practice since graduation, the applicant shall be given a credit of 1 percent on the general average.

(f) An applicant having fulfilled the requirements of Section 1005 and paid the fee thereunder, and having obtained a diplomate certificate from the National Board of Chiropractic Examiners, may offer the certificate together with a transcript of grades secured in the national board examination, and the California Board of Chiropractic Examiners may accept those in lieu of all or a portion of the California board examination, as determined by the board.

SEC. 15. Section 1006.5 is added to the Business and Professions Code, to read:

1006.5. The Attorney General shall act as legal counsel for the board and shall represent the board in any judicial and administrative proceeding. His or her services shall be a charge against the board.

SEC. 16. Section 1007 is added to the Business and Professions Code, to read:

1007. One form of certificate shall be issued by the State Board of Chiropractic Examiners, which shall be designated "License to practice chiropractic," and shall authorize the holder thereof to practice chiropractic in the State of California as taught in chiropractic schools or colleges; and, also, to use all necessary mechanical, and hygienic and sanitary measures incident to the care of the body, but shall not authorize the practice of medicine, surgery, osteopathy, dentistry or optometry, nor the use of any drug or medicine now or hereafter included in materia medica.

SEC. 17. Section 1008 is added to the Business and Professions Code, to read:

1008. No blind person shall be denied admission into any college or school of chiropractic or denied the right to take any examination given by such school or college or denied a diploma or certificate of graduation or a degree or denied admission into any examination for a state license or denied a regular license to practice chiropractic on the ground that he or she is blind.

SEC. 18. Section 1009 is added to the Business and Professions Code, to read:

1009. Notwithstanding any provision of this chapter, the board, upon receipt of the fee specified in Section 1005, shall issue a license to any person licensed to practice chiropractic under the laws of another state, provided that the state then had the same general requirements as required in this state at the time the license was issued and provided that the other state in like manner grants reciprocal registration to chiropractic practitioners of this state.

The applicant shall also provide a certificate from the other state stating that he or she was licensed by that state, that he or she has not been convicted of unprofessional conduct, and that there is no charge of unprofessional conduct pending against him or her.

SEC. 19. Section 1010 is added to the Business and Professions Code, to read:

1010. (a) The board may by rule or regulation adopt, amend, or repeal rules of professional conduct appropriate to the establishment and maintenance of a high standard of professional service and the protection of the public. These rules or regulations shall be adopted, amended, or repealed in accordance with the provisions of Chapter 4.5 (commencing with Section 11400) of

Part 1 of Division 3 of Title 2 of the Government Code as it now reads or as it may be hereafter amended.

(b) The board may refuse to grant, or may suspend or revoke, a license to practice chiropractic in this state, or may place the licensee upon probation or issue a reprimand to him or her, for violation of the rules and regulations adopted by the board in accordance with this chapter, or for any cause specified in this chapter, including, but not limited to: The employment of fraud or deception in applying for a license or in passing an examination as provided in this chapter; the practice of chiropractic under a false or assumed name; or the personation of another practitioner of like or different name; a plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense substantially related to the practice of chiropractic; habitual intemperance in the use of ardent spirits, narcotics or stimulants to such an extent as to incapacitate him or her for the performance of his or her professional duties; the advertising of any means whereby the monthly periods of women can be regulated or the menses reestablished if suppressed; or the advertising, directly, indirectly or in substance, upon any card, sign, newspaper advertisement, or other written or printed sign or advertisement, that the holder of such license or any other person, company or association by which he or she is employed, or in whose services he or she is, will treat, cure, or attempt to treat or cure, any venereal disease, or will treat or cure, or attempt to treat or cure, any person afflicted with any sexual disease, for lost manhood, sexual weakness or sexual disorder or any disease of the sexual organs; or being employed by, or being in the service of any person, company or association so advertising. The proceedings for the refusal to grant, suspension or revocation of a license upon any of the foregoing grounds shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code as it now reads or as it may be hereafter amended, and the board shall have all the powers granted therein. The secretary of the board on all cases of revocation shall enter on his or her register the fact of the revocation, and shall certify the fact of the revocation under the seal of the board to the county clerk of the counties in which the certificates of the person whose certificate has been revoked is recorded; and the clerk shall write upon the margin or across the

face of his or her register of the certificate of the person the following: "This certificate was revoked on the _____ day of _____," giving the day, month, and year of the revocation in accordance with the certification to him or her by the secretary. The record of revocation made by the county clerk shall be prima facie evidence of the fact thereof, and of the regularity of all proceedings of the board in the matter of the revocation.

(c) At any time after two years following the revocation or cancellation of a license or registration under this section, the board may, by a majority vote, reissue a license to the person affected, restoring him or her to, or conferring on him or her all the rights and privileges granted by his or her original license or certificate. Any person to whom such rights have been restored shall pay to the secretary the fee specified in Section 1005 upon the issuance of a new license.

SEC. 20. Section 1012 is added to the Business and Professions Code, to read:

1012. Licenses issued under the provisions of this section expire at midnight on the last day of the month of birth of licentiates of the board.

The board shall establish regulations for the administration of a birth month renewal program. Each person practicing chiropractic within this state shall, on or before the last day of their month of birth of each year, after a license is issued to them as herein provided, pay to the State Board of Chiropractic Examiners a renewal fee of not more than one hundred fifty dollars ($150) as determined by the board. The secretary shall mail to all licensed chiropractors in this state, on or before 60 days prior to the last day of the month of their birth each year, a notice that the renewal fee will be due on or before the last day of the month of their birth next following. Nothing in this chapter shall be construed to require the receipts to be recorded in like manner as original licenses. The failure, neglect, or refusal of any person holding a license or certificate to practice under this chapter in the State of California to pay the annual fee during the time his or her license remains in force shall, after a period of 60 days from the last day of the month of his or her birth automatically work a forfeiture of his or her license or certificate, and it shall not be restored except upon the written application and the payment to the board of a fee of twice the annual amount of the renewal fee in effect at the time the

restoration application is filed, except that a licensee who fails, refuses, or neglects to pay the annual ~~tax~~ *fee* within a period of 60 days after the last day of the month of his or her birth of each year shall not be required to submit to an examination for the reissuance of the certificate.

SEC. 21. Section 1012.5 is added to the Business and Professions Code, to read:

1012.5. The Legislature may by law fix the amounts of the fees payable by applicants and licensees and the amount of the per diem compensation payable to members of the board.

SEC. 22. Section 1013 is added to the Business and Professions Code, to read:

1013. Chiropractic licensees shall observe and be subject to all state and municipal regulations relating to all matters pertaining to the public health, and shall sign death certificates and make reports as required by law to the proper authorities, and those reports shall be accepted by the officers of the departments to which they are made.

SEC. 23. Section 1014 is added to the Business and Professions Code, to read:

1014. The executive officer shall at the end of each month report to the Controller the total amount of money received by the board from all sources, and shall deposit with the Treasurer the entire amount of those receipts, and the Treasurer shall place the money so received in a special fund, to be known as the "State Board of Chiropractic Examiners' Fund". Moneys in the fund shall be expended in accordance with law for all necessary and proper expenses in carrying out the provisions of this chapter, upon proper claims approved by the board or a finance committee thereof. All appropriations from the fund shall be made by the Legislature in the annual Budget Act.

SEC. 24. Section 1015 is added to the Business and Professions Code, to read:

1015. Any person who practices or attempts to practice chiropractic, or any person who buys, sells, or fraudulently obtains a license to practice chiropractic, whether recorded or not, or who uses the title "chiropractor" or "D.C." or any word or title to induce, or tending to induce belief that he or she is engaged in the practice of chiropractic, without first complying with the provisions of this chapter; or any licensee under this chapter who uses the

word “doctor” or the prefix “Dr.” without the word “chiropractor,” or “D.C.” immediately following his or her name, or the use of the letters “M.D.” or the words “doctor of medicine,” or the term “surgeon,” or the term “physician,” or the word “osteopath,” or the letters “D.O.” or any other letters, prefixes or suffixes, the use of which would indicate that he or she was practicing a profession for which he or she held no license from the State of California, or any person who violates any of the provisions of this chapter, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars ($100) and not more than seven hundred fifty dollars ($750), or by imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

SEC. 25. Section 1016 is added to the Business and Professions Code, to read:

1016. Nothing in this chapter shall be construed to prohibit service in case of emergency, or the domestic administration of chiropractic, nor shall this chapter apply to any chiropractor from any other state or territory who is actually consulting with a licensed chiropractor in this state; provided, that the consulting chiropractor shall not open an office or appoint a place to receive patients within the limits of the state; nor shall this chapter be construed so as to discriminate against any particular school of chiropractic, or any other treatment; nor to regulate, prohibit or apply to any kind of treatment by prayer; nor to interfere in any way with the practice of religion. Nor shall this chapter apply to persons who are licensed under other acts.

SEC. 26. Section 1017 is added to the Business and Professions Code, to read:

1017. It shall be the duty of the board to aid attorneys and law enforcement agencies in the enforcement of this chapter.

SEC. 27. Section 1018 is added to the Business and Professions Code, to read:

1018. Nothing herein shall be construed as repealing the “Medical Practice Act” of June 2, 1913, or any subsequent amendments thereof, except ~~in so far~~ *insofar* as that act or amendments to that act conflict with the provisions of this chapter as applied to persons licensed under this chapter, to which extent any and all acts or parts of acts in conflict herewith are hereby repealed.

SEC. 28. Section 1018.5 is added to the Business and Professions Code, to read:

1018.5. This chapter, as amended, may be further amended or modified by the Legislature. In addition to the power to amend or modify, the Legislature shall have the power to repeal this chapter, as amended, in its entirety.

SEC. 29. Section 1019 is added to the Business and Professions Code, to read:

1019. If any provision or application of this chapter is for any reason held to be unconstitutional, the decision shall not affect the validity of the remaining provisions of this chapter, or applications thereof.

SEC. 30. Section 1 of the act cited in the title is amended to read:

Section 1. A board is hereby created to be known as the "State Board of Chiropractic Examiners," hereinafter referred to as the board. The board shall consist of nine members. Seven members shall be appointed by the Governor, subject to confirmation by the Senate, two of whom shall be public members. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint one public member. Each member shall be a citizen of the United States and shall have been a resident of California for five years. Each licensee member shall have had at least five years of licensure in this state prior to appointment. Each licensee member shall have pursued a resident course in an approved chiropractic school or college, and shall be a graduate thereof and hold a diploma therefrom.

Not more than two persons shall serve simultaneously as members of the board, whose first diplomas were issued by the same school or college of chiropractic, nor shall more than two members be residents of any one county of the state. And no person who is or within one year of the proposed appointment has been an administrator, policy board member, or paid employee of any chiropractic school or college shall be eligible for appointment to the board. Each member of the board shall receive a per diem in the amount provided in Section 103 of the Business and Professions Code for each day during which he or she is actually engaged in the discharge of his or her duties, together with his or her actual and necessary travel expenses incurred in connection with the performance of the duties of his or her office, and the per diem,

travel expenses and other incidental expenses of the board or of its members shall be paid out of the funds of the board hereinafter defined and not from the state's taxes.

The Legislature may, upon review, repeal this section and reconstitute the board.

SEC. 31. Section 1.5 is added to the act cited in the title, to read:

Sec. 1.5. Protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with the other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 32. Section 2 of the act cited in the title is amended to read:

~~SEC. 2.~~

Sec. 2. Each appointment to the board shall be for the term of four years, except that an appointment to fill a vacancy shall be for the unexpired term only. Each member shall serve until his or her successor has been appointed and qualified or until one year has elapsed since the expiration of his or her term whichever first occurs. No person shall serve more than two consecutive terms on the board nor be eligible for appointment thereafter until the expiration of four years from the expiration of such second consecutive term, effective January 2, 1974. The Governor may remove a member from the board after receiving sufficient proof of the inability or misconduct of the member.

SEC. 33. Section 3 of the act cited in the title is amended to read:

Sec. 3. The board shall elect a chairman and a vice chairman and a secretary to be chosen from the members of the board. The board shall appoint a person exempt from civil service, by and with the approval of the Director of Consumer Affairs, to be designated as an executive officer. Elections of the officers shall occur annually at the January meeting of the board. A majority of the board shall constitute a quorum.

It shall require the affirmative vote of five members of the board to carry any motion or resolution, to adopt any rule, or to authorize the issuance of any license provided for in this act. The executive officer shall receive a salary to be fixed by the board, with the approval of the Director of Finance, together with his or her actual

and necessary traveling expenses incurred in connection with the performance of the duties of his or her office, and shall give bond to the state in a sum and with such sureties as the board may deem proper. He or she shall keep a record of the proceedings of the board, which shall at times during business hours be open to the public for inspection. He or she shall keep a true and accurate account of all funds received and of all expenditures incurred or authorized by the board, and on the first day of December of each year he or she shall file with the Governor, or his or her designee, a report of all receipts and disbursements and of the proceedings of the board for the preceding fiscal year.

SEC. 34. Section 4 of the act cited in the title is amended to read:

Sec. 4. Powers of the board. The board shall have power:

(a) To adopt a seal, which shall be affixed to all licenses issued by the board.

(b) To adopt from time to time rules and regulations as the board may deem proper and necessary for the performance of its work, the effective enforcement and administration of this act, the establishment of educational requirements for license renewal, and the protection of the public. These rules and regulations shall be adopted, amended, repealed and established in accordance with the provisions of Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code as it now reads or as it may be hereafter amended by the Legislature.

(c) To examine applicants and to issue and revoke licenses to practice chiropractic, as provided in this act.

(d) To summon witnesses and to take testimony as to matters pertaining to its duties; and each member shall have power to administer oaths and take affidavits.

(e) To do any and all things necessary or incidental to the exercise of the powers and duties granted or imposed by this act.

(f) To determine minimum requirements for teachers in chiropractic schools and colleges.

(g) To approve chiropractic schools and colleges whose graduates may apply for licenses in this state. The following shall be eligible for approval:

(1) Any chiropractic school or college having status with the accrediting agency and meeting the requirements of Section 5 of this act and the rules and regulations adopted by the board.

(2) Any chiropractic school or college initially commencing instruction prior to the effective date of the amendments to this section approved by the electors at the November 1976 general election, provided that the school or college meets the requirements of Section 5 of this act and the rules and regulations adopted by the board and provided that the school or college attains status with the accrediting agency within a time period commencing on the effective date of this provision and ending March 1, 1980.

(3) Any chiropractic school or college initially commencing instruction subsequent to the effective date of the amendments to this section approved by the electors at the November 1976 general election, provided that the school or college meets the requirements of Section 5 of this act and the rules and regulations adopted by the board and provided that the school or college attains status with the accrediting agency within a time period not exceeding three years following the commencement of instruction.

Upon submission of evidence satisfactory to the board that the accrediting agency has unreasonably denied status to a chiropractic school or college approved under paragraph (2) or (3) of this subdivision by not considering the application for status submitted by that school or college in a timely manner, by denying the application for status submitted by that school or college without good cause, or by imposing arbitrary and capricious additional requirements upon that school or college as conditions for the attainment of status, the board shall grant an extension of the time period for the attainment of status specified in the paragraph under which that school or college is approved, as it applies to that school or college, of at least six months but no more than one year. Prior to the expiration of the extension or of any additional extension the board grants, the board shall determine whether that school or college has been unreasonably denied status by the accrediting agency for any of the reasons specified in the immediately preceding sentence during the extension. Should the board determine that unreasonable denial of status during the extension has occurred, the board shall grant an additional extension of the time period for the attainment of status, as it applies to that school or college, of at least six months but no more than one year.

As used in this section, "accrediting agency" means (1) the Accrediting Commission of the Council on Chiropractic Education, other chiropractic school and college accrediting agencies as may

be recognized by the United States Commissioner of Education, or chiropractic school and college accrediting agencies employing equivalent standards for accreditation as determined by the board, (2) in the event that the commission ceases to exist or ceases to be recognized by the commissioner, a chiropractic school and college accrediting agency as may be designated by the board or chiropractic school and college accrediting agencies employing equivalent standards for accreditation as determined by the board, or (3) in the event that the commission ceases to exist or ceases to be recognized by the commissioner, no other accrediting agency is recognized by the commissioner, and no accrediting agency is acceptable to the board, the board.

As used in this section, "status" means correspondent status, status as a recognized candidate for accreditation, accredited status, or other similar status as may be adopted and used by the accrediting agency.

As used in this section, "in a timely manner" means within the time deadlines as may be established by the accrediting agency for submission of applications, consideration of applications submitted, acceptance or rejection of applications submitted, and other similar functions, as those time deadlines are interpreted by the board.

As used in this section, "without good cause" means not in accordance with rules and regulations that may be established by the accrediting agency as conditions for the attainment of status, as those rules and regulations are interpreted by the board.

As used in this section, "arbitrary and capricious additional requirements" means requirements that may be imposed by the accrediting agency as conditions for the attainment of status during the time period specified for the attainment of status by a chiropractic school or college that, in the board's judgement, cannot be satisfied within the time period or do not serve to improve the educational standards or quality of the school or college.

(h) The board may employ any investigators, clerical assistants, commissioners on examination, and other employees as it may deem necessary to carry into effect the provisions of this act, and shall prescribe the duties of those employees. Persons employed pursuant to this subdivision shall be subject to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 5 of the Government Code).

SEC. 35. Section 6 of the act cited in the title is amended to read:

Sec. 6. (a) The office of the board shall be in the City of Sacramento. Suboffices may be established in Los Angeles and San Francisco, and any records as may be necessary may be transferred temporarily to the suboffices. Legal proceedings against the board may be instituted in any one of the three cities.

(b) All meetings of the board shall be conducted in accordance with the provisions of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(c) The board shall meet as a board of examiners at least twice each calendar year, at times and places as may be found necessary for the performance of its duties.

(d) The board shall comply with the requirements of Chapter 22.5 (commencing with Section 7528) of Division 7 of Title 1 of the Government Code and with the provisions of Article 10 (commencing with Section 11364) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(e) Examinations shall be written, oral, and practical, covering chiropractic as taught in chiropractic schools or colleges, designed to ascertain the fitness of the applicant to practice chiropractic. The examination shall include at least each of the subjects as set forth in Section 5 of this act. Identity of the applicants shall not be disclosed to the examiners until after examinations have been given final grades. A license shall be granted to any applicant who makes a general average of 75 percent, and does not fall below 60 percent in more than two subjects or branches of the examination and receives a 75 percent score in all parts of the practical examination as designated by the board. Any applicant failing to make the required grade shall be given credit for the branches passed, and may, without further cost, take the examination at the next regular examination on the subjects in which he or she failed. For each year of actual practice since graduation, the applicant shall be given a credit of 1 percent on the general average.

(f) An applicant having fulfilled the requirements of Section 5 and paid the fee thereunder, and having obtained a diplomate certificate from the National Board of Chiropractic Examiners, may offer the certificate together with a transcript of grades secured in the national board examination, and the California Board of

Chiropractic Examiners may accept those in lieu of all or a portion of the California board examination, as determined by the board.

SEC. 36. Section 6.5 is added to the act cited in the title, to read:

Sec. 6.5. The Attorney General shall act as legal counsel for the board and shall represent the board in any judicial and administrative proceeding. His or her services shall be a charge against the board.

SEC. 37. Section 14 of the act cited in the title is amended to read:

Sec. 14. The executive officer shall at the end of each month report to the Controller the total amount of money received by the board from all sources, and shall deposit with the Treasurer the entire amount of those receipts, and the Treasurer shall place the money so received in a special fund, to be known as the "State Board of Chiropractic Examiners' Fund". Moneys in the fund shall be expended in accordance with law for all necessary and proper expenses in carrying out the provisions of this act, upon proper claims approved by ~~said~~ *the* board or a finance committee thereof. All appropriations from the fund shall be made by the Legislature in the annual Budget Act.

SEC. 38. Section 18.5 is added to the act cited in the title, to read:

Sec. 18.5. This act, as amended, may be further amended or modified by the Legislature. In addition to the power to amend or modify, the Legislature shall have the power to repeal this act, as amended, in its entirety.

SEC. 39. Sections 30 to 38, inclusive, of this act shall become effective only when submitted to and if approved by the electors pursuant to subdivision (c) of Section 10 of Article II of the California Constitution. The Secretary of State is hereby directed to place those provisions on the ballot of the ~~next statewide~~ *June 3, 2008, primary* election for approval by the electors in accordance with the applicable provisions of law.

SEC. 40. Sections 1 to 29, inclusive, of this act shall become operative on the date upon which Sections 30 to 38, inclusive, of this act are approved by the electors.

~~SEC. 41. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within~~

~~the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:~~

~~In order to reform the regulations imposed on the practice of chiropractic and to reform the Board of Chiropractic Examiners, which have proven ineffective to fully protect the public interest, at the earliest possible time and, to that end, to ensure that the necessary provisions of this act are placed on the ballot for the next statewide election, it is necessary that this act take effect immediately.~~

SEC. 41. It is the intent of the Legislature to appropriate from the revenues in the State Board of Chiropractic Examiners' Fund consisting of fees paid for the issuance and renewal of licenses issued by the State Board of Chiropractic Examiners an amount that it is sufficient to pay for the printing costs incurred by the Secretary of State in placing Sections 30 to 38, inclusive, of this act on the ballot at the June 3, 2008, primary election, as described in Section 39 of this act.

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COMPLETE BILL HISTORY

BILL NUMBER : S.B. No. 801
AUTHOR : Ridley-Thomas
TOPIC : Chiropractors.

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

BILL HISTORY
2007
July 10 From committee: Do pass, but first be re-referred to Com. on APPR.
(Ayes 6. Noes 3.) Re-referred to Com. on APPR.
July 3 Hearing postponed by committee.
June 21 To Com. on B. & P.
June 7 In Assembly. Read first time. Held at Desk.
June 7 Read third time. Passed. (Ayes 24. Noes 16. Page 1322.) To Assembly.
June 4 From committee: Do pass as amended. (Ayes 10. Noes 6. Page 1221.)
Read second time. Amended. To third reading.
May 25 Set for hearing May 31.
May 7 Placed on APPR. suspense file.
Apr. 26 Set for hearing May 7.
Apr. 25 Read second time. Amended. Re-referred to Com. on APPR.
(Corrected May 10.)
Apr. 24 From committee: Do pass as amended, but first amend, and re-refer
to Com. on APPR. (Ayes 6. Noes 2. Page 706.)
Apr. 19 Re-referred to Com. on B., P. & E.D.
Apr. 16 Set, second hearing. Hearing canceled at the request of author.
From committee with author's amendments. Read second time.
Amended. Re-referred to Com. on HEALTH. Withdrawn from

committee.
Re-referred to Com. on RLS.
Apr. 11 Set for hearing April 23 in B., P. & E.D. pending receipt.
Mar. 28 Set, first hearing. Hearing canceled at the request of author. Set
for hearing April 18.
Mar. 15 Set for hearing April 11.
Mar. 8 To Com. on HEALTH.
Feb. 26 Read first time.
Feb. 24 From print. May be acted upon on or after March 26.
Feb. 23 Introduced. To Com. on RLS. for assignment. To print.

Hearing Date:April 23, 2007	Bill No:SB 801

SENATE COMMITTEE ON BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT
Senator Mark Ridley-Thomas, Chair

Bill No: SB 801 Author:Ridley-Thomas
As Amended: April 16, 2007 Fiscal: Yes

SUBJECT: Chiropractors: Chiropractic Initiative Act.

SUMMARY: This is an urgency measure that places an initiative statute on the next statewide ballot to amend the Chiropractic Initiative Act to allow the Legislature to amend, modify, or repeal the Act, and proposes to amend and codify the Act into the Business and Professions Code, if the initiative statute is approved by the voters.

Existing law:

1)Consists of the Chiropractic Initiative Act, which prescribes the terms upon which licenses may be issued to practitioners of chiropractic, creates the State Board of Chiropractic Examiners (Board), declares the Board's powers and duties, and prescribes penalties for violation of the Act. The Act can only be amended by initiative.

2)States that the Board shall consist of seven members appointed by the Governor, with five licensee members and two public members, and specifies the requirements for board members.

3)Requires the Board to employ an executive officer and fix his salary with the approval of the Director of Finance.

4)Authorizes the Board to employ investigators, clerical assistants, commissioners on examination and other employees as it may deem necessary to carry into effect the provisions of the Act, and prescribe the duties of such employees.

This bill:

1)Proposes to add a provision to the Act to allow the Act, as amended, to be further amended or modified by the Legislature, and in addition, give the Legislature the power to repeal this Act in its entirety.

2)Proposes to amend the Act to add two new public members to the Board, with one appointed by the Senate Rules Committee and one appointed by the Assembly Speaker, and subject the Governor's appointments to Senate confirmation.

3)Proposes to amend the Act to allow the Legislature to, upon review, repeal the law that creates the Board and reconstitute the Board.

4)Proposes to add a provision to the Act to state that protection of the public shall be the highest priority for the Board in exercising its licensing, regulatory, and disciplinary functions, and that whenever the protection of the public is inconsistent with the other interests sought to be promoted, the protection of the public shall be paramount.

5)Proposes to amend the Act to require the Board to appoint a person exempt from civil service, by and with the approval of the Director of the Department of Consumer Affairs (DCA), to be designated as executive officer.

6)Proposes to amend the Act to require persons employed by the Board to be subject to the State Civil Service Act.

7)Proposes to amend the Act to require that all meetings of the Board shall be conducted in accordance with the Bagley-Keene Open Meeting Act.

8)Proposes to amend the Act to require the Board to post on a website the links to information relating to frequently asked questions about how to obtain a license, forms and applications, and how to file complaints against licensees.

9)Proposes to amend the Act to require the Attorney General to act as legal counsel for the Board and represent the

Board in any judicial and administrative proceeding.

10) Proposes that all appropriations from the State Board of Chiropractic Examiners' Fund shall be made by the Legislature in the annual Budget Act.

11) Directs the Secretary of State to place all of the proposed amendments to the Act on the ballot of the next statewide election for approval of the electors.

12) This bill would also codify the provisions of the Act as proposed to be amended by initiative statute as part of the Business and Professions Code.

13) Provides that numerous sections of the Business and Professions Code, which apply to several other boards, would also apply to the Board.

14) Provides that all the changes made to the Business and Professions Code by this measure shall only become operative on the date upon which the proposed changes to the Act are approved by the electors.

FISCAL EFFECT: Unknown. This bill has been keyed "fiscal" by Legislative Counsel.

COMMENTS:

1. Purpose. The primary purpose of this measure is to give the Legislature the authority to amend or modify, or repeal after review, the laws relating to the licensing, regulation and enforcement of the practice of chiropractic to ensure that consumers are being adequately protected from chiropractors who are providing illegal or inappropriate services. Protection of the public needs to be the highest priority of the Board and paramount to any other interests of the Board members. At present, the Legislature has little or no control over the activities of the Board and this must be changed.

2. Background. Chiropractors provide non-drug, non-surgical health care through treatment of the musculoskeletal and nervous systems and manipulation of the spinal column and bony tissues. In FY 2004/05 the Board had a license base

of 15,412 -- 14,206 active and 1,206 inactive licensees. Its budget was approximately $2.25 million.

The Board was created on December 21, 1922, as the result of an initiative measure approved by California voters on November 7, 1922. The Board is a seven-member policy-making body. Five professional members and two public members appointed by the Governor to serve four-year terms. Because the Board was created by an initiative that does not permit amendment by the Legislature, the Legislature is without the power to sunset the Board, or repeal the state's regulation of the chiropractic profession. The Legislature could, however, place proposed reform statutes before the electorate by a two-thirds vote and seek the electorate's approval.

The Board's mission is to protect consumers from fraudulent or incompetent chiropractic practice, examine applicants for licensure in order to evaluate entry level competence, and enforce the Act, statutes, and regulations relating to the practice of chiropractic. The Board's regulatory program also approves chiropractic schools and colleges whose graduates may apply for licensure in California and approves continuing education. As a law enforcement agency, the Board enforces laws and regulations pertaining to the practice of chiropractic in California.

3. Sunset Review of the Board in 2001-2002. The Board was reviewed by the Joint Legislative Sunset Review Committee, now the Joint Committee on Boards, Commissions and Consumer Protection (Joint Committee) during 2001-2002. At that time, the Joint Committee identified a number of problem areas concerning this Board and directed the Board to address these concerns and implement a number of recommended changes. Those recommendations included the following, which are pertinent to the issues addressed in SB 801.

   a) Recommended that all current and future provisions of the Business and Professions Code that apply to other health-related practitioners and licensing boards should also apply to chiropractors.

   b) Recommended that the Board add two new public members for a total of nine members (five professional

and four public).

Since that review, the Board has been included in some legislation that was designed to bring the Board into line with other health practitioner licensing boards.

4. Sunset Review of the Board in 2005-2006. During the Board's 2005-2006 sunset review there were also some issues that came up relating to those embodied in SB 801. Of note, it was pointed out that this Board is not situated within the DCA. The Board's stand-alone structure places it outside of the administrative services and oversight functions provided by the DCA. As a result of this unique structure, DCA does not monitor the operations of the Board and is in a limited position to offer meaningful comment on its operation. An initiative statute would be required to eliminate the Board or place it under the jurisdiction of DCA or another agency. In the past there did not appear to be any need to change the current regulatory structure for the chiropractic profession. If the Board is eliminated and a desire to regulate the profession still exists another entity would have to be given that responsibility.

Another issue raised was that many statutes enacted by the Legislature since 1923 relating to the practice of chiropractic may be legally precarious. The uncodified Act was enacted in 1922. Eight subsequent initiatives have been enacted. Unlike many initiatives that contain provisions allowing for the Legislature to amend the initiative to further the initiative's purposes, neither the Act nor its successor initiatives contain provisions permitting any amendment by the Legislature.

Article II, section 10(c) of the California Constitution

states that the "Legislature may amend or repeal an initiative statute by another statute that becomes effective only when approved by the electors unless the initiative statute permits amendment or repeal without their approval." This means that the Legislature without a vote of the electorate may not enact statutes that amend initiative statutes unless the initiative statute so provides. "When a statute enacted by the initiative process is involved, the Legislature may amend it only if the voters specifically gave the Legislature

that power, and then only upon whatever conditions the voters attached to the Legislature's amendatory powers. Thus, a cursory review of some of the statutes dealing with the chiropractic profession, which have only been enacted by the Legislature, shows that many may be of precarious legality.

5. Joint Committee Recommendations Regarding the Board in 2006. As part of the last two reviews, the Joint Committee recommended that two additional public members be added for a total of nine members (five professional and four public). The appointing authority should be given to the Legislature, with one of the new members appointed by the Senate Rules Committee and the other by the Assembly Speaker. Currently, the Board is unique in that all seven members of the Board are appointed by the Governor with no appointments made by the Legislature. The Joint Committee based its recommendation on the premise that this composition would provide adequate public representation while continuing to maintain the expertise needed for chiropractic issues. Requiring closer parity between public and professional members is consistent with both this Committee's and the DCA's recommendations regarding other boards that have undergone sunset review.

This recommendation was included in SB 1954 (Figueroa) in 2002. However, due to the approximate cost of $200,000 to the General Fund to print the amendments to the Act for the 2004 statewide election, the bill was not passed.

Last year the Joint Committee recommended that the Board (1) identify those statutes that were enacted without a vote of the people that could be considered amendments to the Act; (2) determine if additional amendment of the Act is necessary to ensure that these statutes cannot be challenged; and, (3) determine in conjunction with the Joint Committee staff and stakeholders whether the Act should be amended to permit amendment by the Legislature without a vote of the people and, if so, on what terms.

6. Joint Hearing of the Chiropractic Board by this Committee and the Assembly Business and Professions Committee. On March 28, 2007 a joint hearing was held in response to several actions that were taken by the Board over the past few months. In particular, it was alleged that some of the actions taken by the Board at its March 1, 2007

meeting were inappropriate and illegal. Since that hearing, the Board chairman has taken the blame for those actions and two of them have been rescinded. In addition, the Board is scheduled to reconsider two more of its actions from the March 1, 2007 meeting at the next meeting scheduled for April 19, 2007.

During the Joint Hearing, the evidence gathered indicated that the Board and its members had potentially violated the law or administrative procedures in several areas, including:1) communications between Board members illegal under the Bagley Keene Open Meeting Act; 2) not following or ignoring proper civil service employee procedures and requirements in an attempt to make personnel decision

about non-exempt civil service employees; 3) attempts by certain Board members to interfere with ongoing enforcement actions of the Board enforcement staff and the Attorney General's Office; 4) making an improper attempt to influence or impede ongoing criminal prosecution against chiropractors involved in insurance fraud and who provided manipulation under anesthesia; 5) proposing to dismiss the Attorney General as counsel for the Board, ejecting the Deputy Attorney General from the March 1st Board Meeting; and removal of a Deputy Attorney General as Board counsel; 6) failure to follow required procedures for approving a chiropractic college and allowing its graduates to practice in California; and 7) firing of the Executive Officer without following appropriate procedures and self appointment of the Board Chair as Executive Officer.

In addition to the above, some serious concerns have recently been raised regarding the mission of the Board and some of its newest members. In fact, some of those involved, including the appointing authority, have made statements that may lead one to believe that the primary purpose of the Board is to represent the profession's viewpoints. The official mission of the Board is to: 1) protect Californians from fraudulent or incompetent practice of chiropractic; 2) examine applicants for licensure in order to evaluate entry level competence; and, 3) enforce the Chiropractic Initiative Act and regulations relating to the practice of chiropractic. It has appeared on more than one occasion that the Board members may have lost sight of this objective.

7.Lack of Legislative and Administrative Oversight of the

Chiropractic Board. Unfortunately, under existing law, there is little or nothing the Legislature or the Administration can do to ensure that the Board's activities are in line with the primary purpose to protect the public. Most of the provisions that apply to the other professional boards for oversight and corrective action by the Legislature and the Administration have not been added to the Act by a vote of the people. Currently, the only action that can be taken against Board members, other than enforcement of the laws that pertain to them, is for the Governor to remove his or her appointments.

All of the following healing arts boards and bureaus are part of DCA, including the Dental Board of California, the Medical Board of California, the State Board of Optometry, the California State Board of Pharmacy, The Board of Registered Nursing, The Board of Vocational Nursing and Psychiatric Technicians, the Respiratory Care Board of California, the Acupuncture Board, the Board of Psychology, the California Board of Podiatric Medicine, the Physical Therapy Board of California, the Hearing Aid Dispensers Bureau, the Speech-Language Pathology and Audiology Board, the California Board of Occupational Therapy, the Osteopathic Medical Board of California and the Bureau of Naturopathic Medicine. The Board of Chiropractic Examiners (Board) is the only healing arts board that is not a part of DCA.

Those agencies that are under the DCA submit their budgets through the Budget Act with the assistance and review of DCA and the Department of Finance. They also receive administrative support and assistance in other areas such as personnel matters, regulations, contracting and legal advice.

In addition to the Board, the Osteopathic Medical Board of California and the State Athletic Commission were both originally created by initiative statutes that did not provide for amendment by the Legislature. Both of these initiative acts were subsequently amended by initiative statutes to allow the Legislature to amend them and to place the Osteopathic Medical Board of California and the State Athletic Commission under the DCA. Those initiative statutes are similar to what is being proposed in SB 801.

8. Arguments in Support. The Center for Public Interest Law (CPIL) strongly supports this measure because it would subject the Board to the same oversight and supervision by the Legislature and the Administration that applies to other state agencies that regulate health care professionals. CPIL believes that an attempt to bring the Board in line with the mainstream of California government is long overdue. In addition, the urgency of SB 801 is illustrated by the several recent controversies relating to the actions of the Board, which were well-reported in the media and occurred because the Board is not subject to any meaningful oversight, training, and/or accountability by either the Legislature or the Administration.

As noted by CPIL, the Board lacks accountability to the Legislature because it can't amend or repeal the Act. The Board lacks accountability to the Administration because it doesn't reside within any larger agency or department that reviews its regulations, monitors its budget, or provides it with services. The statutes of all other agencies that regulate health care professionals are codified in the Business and Professions Code, and are able to be amended by the Legislature. All of these agencies have been placed under the jurisdiction of the DCA. This Board should be treated the same as all of these other agencies that regulate health care professionals.

Finally, according to CPIL, SB 801 is necessary to affirm the validity of recent legislation that has been applied to the Board and to chiropractors, and the practice of chiropractic merits the same level of executive and legislative branch oversight as the practices of the other health professions.

9. Arguments in Opposition. The California Chiropractic Association (CCA) has an "oppose unless amended" position on this measure. CCA states: "Although we support the concept of strengthening legislative oversight of the BCE, we are unalterably opposed to allowing the Legislature to make unfettered amendments to the Act, as proposed by SB 801. Changing the way the chiropractic profession has been regulated for 100 years is an unwarranted, quick-fix that will not solve the problems you seek to address. It will however, create a host of

other serious issues for the profession and ultimately threaten our viability."

CCA points out that SB 801, as amended, had only been in print for a short period of time when its initial comments were prepared. For that reason CCA reserves the right to make additional comments and raise more concerns once more of the Association's members become aware of the proposal.

CCA also indicated that it supports the following changes in SB 801:

" Reinforce that the protection of the public is the highest priority for the BCE.
Make clear the laws (unrelated to scope of practice) that apply to all other health
care providers also apply to doctors of chiropractic.
Authorize the Legislature to sunset and reconstitute the BCE.
Require Senate confirmation of the governor's appointments.
Require the attorney general to be legal counsel for the BCE, as long as the
relationship is under the same conditions as provided for

other boards by the
California Constitution.
Require all meetings to be consistent with the Open Meetings Act.
Require the BCE budget to be included in the annual Budget Act.
Require staff be subject to civil service rules."

CCA has a major concern with the provisions in the bill that allow the Legislature to amend or repeal the Act, and the Association declares that this drastic step is not necessary and that unfettered amendments would unnecessarily open up long-settled scope of practice issues. CCA points out that the fact that the Act can't be amended by the Legislature was intentional because lawmakers at the time had blocked all attempts to legalize the chiropractic profession and that they would repeal it if they had the chance.

Furthermore, CCA believes that the medical profession is still conspiring to eliminate the chiropractic profession. Given these threats to the profession, CCA

cannot support granting the Legislature open-ended authority to make changes to the Act.

Finally, CCA does not believe it is necessary to place the Board under DCA because the Board has already established contracts for support services, including personnel, legal and budgeting, from DCA.

10. Technical Amendments. There was a technical error in drafting this bill relating to the number of members of the Board that constitutes a majority. Because the bill adds two members, the total membership is increased from

seven to nine, and the new majority is five. Due to an oversight, this change was not included. To correct this error the following amendments need to be made.

a) On page 7, line 39, strike "four" and insert: five .

b) On page 20, line 9, strike "four" and insert: five .

SUPPORT AND OPPOSITION:

Support:

Center for Public Interest Law (CPIL)

Oppose Unless Amended:

California Chiropractic Association (CCA)

Consultant: George Cate

Senate Appropriations Committee Fiscal Summary
Senator Tom Torlakson, Chairman

801 (Ridley-Thomas)

Hearing Date: 5/31/07 Amended: 4/25/07
Consultant: John Miller Policy Vote: B&P 6 - 2

BILL SUMMARY: SB 801, an urgency measure, places an initiative statute on the next statewide ballot to convert the Chiropractic Initiative Act into statute, allowing the Legislature to amend, modify or repeal the Act.

Fiscal Impact (in thousands)

Major Provisions	2007-08	2008-09	2009-10	Fund
Ballot preparation costs	$ 330	$ 0	$ 0	Special*

*Board of Chiropractic Examiners Fund

STAFF COMMENTS: Suspense File. As proposed to be amended.

This bill is intended to give the Legislature authority over the Board of Chiropractic Examiners and the regulation, licensing and enforcement of the practice of chiropractic medicine. The current Board and regulation of chiropractors was established by popular initiative and SB 801 proposes to place a new initiative on the next ballot converting the initiative/statute into the Business and Professions Codes, give the Legislature authority to amend the revised statutes, reconstitute the Board, subject the Board to oversight and budgetary review, and provide that the Board's highest priority be protection of the public. Costs associated with this measure result from printing expenses to the Secretary of State.

The current Board was created by a popular initiative in 1922. The Board now has seven members (five professional and two public) all appointed by the Governor. The Board is charged with protection of consumers against fraudulent or incompetent practitioners, examination of applicants for licensure, approval of schools of chiropractic, and enforcement of the laws and regulations pertaining to the practice of chiropractic. A review of the chiropractic board by the Joint Committee on Boards, Commissions and Consumer Protection in 2002 and 2006 recommended that the Board be subject to provisions governing other health practitioners and add two additional public members. Legislative hearings in March, 2007 found potential violations of the law and administrative practice and recommended inclusion of the chiropractic board within the Department of Consumer Affairs. The current Board oversees 15,000 licensed chiropractors annually funded by approximately $2.25 million in licensing fees.

As proposed to be amended, the urgency clause is removed and intent language is added to fund all costs from the special Board of Chiropractic Examiners Fund.

SENATE RULES COMMITTEE Office of Senate Floor Analyses 1020 N Street, Suite 524 (916) 651-1520 Fax: (916) 327-4478	SB 801

THIRD READING

Bill No: SB 801
Author: Ridley-Thomas (D)
Amended: 6/4/07
Vote: 21

SENATE BUS., PROF. & ECON DEVEL COMMITTEE : 6-2, 4/23/07
AYES: Ridley-Thomas, Corbett, Florez, Harman, Simitian, Yee
NOES: Aanestad, Denham

SENATE APPROPRIATIONS COMMITTEE : 10-6, 5/31/07
AYES: Torlakson, Cedillo, Corbett, Florez, Kuehl, Oropeza, Ridley-Thomas, Simitian, Steinberg, Yee
NOES: Cox, Aanestad, Ashburn, Dutton, Runner, Wyland
NO VOTE RECORDED: Battin

SUBJECT : Chiropractors: Chiropractic Initiative Act

SOURCE : Author

DIGEST : This bill places an initiative statute on the

June 3, 2008 primary ballot to amend the Chiropractic Initiative Act to allow the Legislature to amend, modify, or repeal the Act, and proposes to amend and codify the Act into the Business and Professions Code, if the initiative statute is approved by the voters.

ANALYSIS :

Existing Law

CONTINUED

1.Consists of the Chiropractic Initiative Act, which prescribes the terms upon which licenses may be issued to practitioners of chiropractic, creates the State Board of Chiropractic Examiners (Board), declares the Board's powers and duties, and prescribes penalties for violation of the Act. The Act can only be amended by initiative.

2.States that the Board shall consist of seven members appointed by the Governor, with five licensee members and two public members, and specifies the requirements for board members

3.Requires the Board to employ an executive officer and fix his salary with the approval of the Director of Finance.

4.Authorizes the Board to employ investigators, clerical assistants, commissioners on examination and other employees as it may deem necessary to carry into effect the provisions of the Act, and prescribe the duties of such employees.

This bill:

1.Proposes to add a provision to the Act to allow the Act, as amended, to be further amended or modified by the

Legislature, and in addition, give the Legislature the power to repeal this Act in its entirety.

2. Proposes to amend the Act to add two new public members to the Board, with one appointed by the Senate Rules Committee and one appointed by the Assembly Speaker, and subject the Governor's appointments to Senate confirmation.

3. Proposes to amend the Act to allow the Legislature to, upon review, repeal the law that creates the Board and reconstitute the Board.

4. Proposes to add a provision to the Act to state that protection of the public shall be the highest priority for the Board in exercising its licensing, regulatory, and disciplinary functions, and that whenever the protection of the public is inconsistent with the other

interests sought to be promoted, the protection of the public shall be paramount.

5. Proposes to amend the Act to require the Board to appoint a person exempt from civil service, by and with the approval of the Director of the Department of Consumer Affairs (DCA), to be designated as executive officer.

6. Proposes to amend the Act to require persons employed by the Board to be subject to the State Civil Service Act.

7. Proposes to amend the Act to require that all meetings of the Board shall be conducted in accordance with the Bagley-Keene Open Meeting Act.

8. Proposes to amend the Act to require the Board to post on a website the links to information relating to frequently asked questions about how to obtain a license, forms and applications, and how to file complaints against licensees.

9. Proposes to amend the Act to require the Attorney General to act as legal counsel for the Board and represent the Board in any judicial and administrative proceeding.

10. Proposes that all appropriations from the State Board of Chiropractic Examiners' Fund shall be made by the Legislature in the annual Budget Act.

11. Directs the Secretary of State to place all of the proposed amendments to the Act on the ballot of the next statewide election for approval of the electors.

12. This bill would also codify the provisions of the Act as proposed to be amended by initiative statute as part of the Business and Professions Code.

13. Provides that numerous sections of the Business and Professions Code, which apply to several other boards, would also apply to the Board.

14. Provides that all the changes made to the Business and

Professions Code by this measure shall only become operative on the date upon which the proposed changes to the Act are approved by the electors.

15. Provides that it is the intent of the Legislature to

appropriate funds from the State Board of Chiropractic Examiners Fund to pay for the printing costs associated with this ballot measure.

Background

Chiropractors provide non-drug, non-surgical health care through treatment of the musculoskeletal and nervous systems and manipulation of the spinal column and bony tissues. In FY 2004/05 the Board had a license base of 15,412 -- 14,206 active and 1,206 inactive licensees. Its budget was approximately $2.25 million.

The Board was created on December 21, 1922, as the result of an initiative measure approved by California voters on November 7, 1922. The Board is a seven-member policy-making body. Five professional members and two public members appointed by the Governor to serve four-year terms. Because the Board was created by an initiative that does not permit amendment by the Legislature, the Legislature is without the power to sunset the Board, or repeal the state's regulation of the chiropractic profession. The Legislature could, however, place proposed reform statutes before the electorate by a two-thirds vote and seek the electorate's approval.

The Board's mission is to protect consumers from fraudulent or incompetent chiropractic practice, examine applicants for licensure in order to evaluate entry level competence, and enforce the Act, statutes, and regulations relating to the practice of chiropractic. The Board's regulatory program also approves chiropractic schools and colleges whose graduates may apply for licensure in California and approves continuing education. As a law enforcement agency, the Board enforces laws and regulations pertaining to the practice of chiropractic in California.

Joint Hearing of the Chiropractic Board by this Committee and the Assembly Business and Professions Committee. On

March 28, 2007 a joint hearing was held in response to several actions that were taken by the Board over the past few months. In particular, it was alleged that some of the actions taken by the Board at its March 1, 2007 meeting were inappropriate and illegal. Since that hearing, the Board chairman has taken the blame for those actions and two of them have been rescinded. In addition, the Board is scheduled to reconsider two more of its actions from the March 1, 2007 meeting at the next meeting scheduled for April 19, 2007.

During the Joint Hearing, the evidence gathered indicated that the Board and its members had potentially violated the law or administrative procedures in several areas, including: (1) communications between Board members illegal under the Bagley Keene Open Meeting Act, (2) not following or ignoring proper civil service employee procedures and requirements in an attempt to make personnel decision about non-exempt civil service employees, (3) attempts by certain Board members to interfere with ongoing enforcement actions of the Board enforcement staff and the Attorney General's Office, (4) making an improper attempt to influence or impede ongoing criminal prosecution against chiropractors involved in insurance fraud and who provided manipulation under anesthesia, (5) proposing to dismiss the Attorney General as counsel for the Board, ejecting the Deputy Attorney General from the March 1st Board Meeting; and removal of a Deputy Attorney General as Board counsel, (6) failure to follow required procedures for approving a chiropractic college and allowing its graduates to practice in California, and (7) firing of the Executive Officer without following appropriate procedures and self appointment of the Board Chair as Executive Officer.

In addition to the above, some serious concerns have recently been raised regarding the mission of the Board and some of its newest members. In fact, some of those involved, including the appointing authority, have made statements that may lead one to believe that the primary

purpose of the Board is to represent the profession's viewpoints. The official mission of the Board is to: (1) protect Californians from fraudulent or incompetent practice of chiropractic, (2) examine applicants for licensure in order to evaluate entry level competence,

and,(3) enforce the Chiropractic Initiative Act and regulations relating to the practice of chiropractic. It has appeared on more than one occasion that the Board members may have lost sight of this objective.

FISCAL EFFECT : Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee analysis:

Fiscal Impact (in thousands)

Major Provisions	2007-08	2008-09	2009-10	Fund
Ballot preparation costs	$300	$-0-	$-0-	Special*

*Board of Chiropractic Examiners Fund

SUPPORT : (Verified 6/1/07)

Center for Public Interest Law

OPPOSITION : (Verified 6/1/07)

California Chiropractic Association

ARGUMENTS IN SUPPORT : The Center for Public Interest Law

(CPIL) strongly supports this measure because it would subject the Board to the same oversight and supervision by the Legislature and the Administration that applies to other state agencies that regulate health care professionals. CPIL believes that an attempt to bring the Board in line with the mainstream of California government is long overdue. In addition, the urgency of SB 801 is illustrated by the several recent controversies relating to the actions of the Board, which were well-reported in the media and occurred because the Board is not subject to any meaningful oversight, training, and/or accountability by either the Legislature or the Administration.

As noted by CPIL, the Board lacks accountability to the Legislature because it can't amend or repeal the Act. The

Board lacks accountability to the Administration because it doesn't reside within any larger agency or department that reviews its regulations, monitors its budget, or provides it with services. The statutes of all other agencies that regulate health care professionals are codified in the Business and Professions Code, and are able to be amended by the Legislature. All of these agencies have been placed under the jurisdiction of the DCA. This Board should be treated the same as all of these other agencies that regulate health care professionals.

Finally, according to CPIL, SB 801 is necessary to affirm the validity of recent legislation that has been applied to the Board and to chiropractors, and the practice of chiropractic merits the same level of executive and legislative branch oversight as the practices of the other health professions.

ARGUMENTS IN OPPOSITION : The California Chiropractic

Association (CCA) has an "oppose unless amended" position on this measure. CCA states, "Although we support the concept of strengthening legislative oversight of the BCE, we are unalterably opposed to allowing the Legislature to make unfettered amendments to the Act, as proposed by SB 801. Changing the way the chiropractic profession has been regulated for 100 years is an unwarranted, quick-fix that will not solve the problems you seek to address. It will however, create a host of other serious issues for the profession and ultimately threaten our viability."

CCA has a major concern with the provisions in the bill that allow the Legislature to amend or repeal the Act, and the Association declares that this drastic step is not necessary and that unfettered amendments would unnecessarily open up long-settled scope of practice issues. CCA points out that the fact that the Act can't be amended by the Legislature was intentional because lawmakers at the time had blocked all attempts to legalize the chiropractic profession and that they would repeal it if they had the chance.

Furthermore, CCA believes that the medical profession is still conspiring to eliminate the chiropractic profession. Given these threats to the profession, CCA cannot support

granting the Legislature open-ended authority to make changes to the Act.

Finally, CCA does not believe it is necessary to place the Board under DCA because the Board has already established contracts for support services, including personnel, legal and budgeting, from DCA.

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

Date of Hearing: July 10, 2007

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Mike Eng, Chair
SB 801 (Ridley-Thomas) - As Amended: June 4, 2007

SENATE VOTE : 24-16

SUBJECT : State Board of Chiropractic Examiners.

SUMMARY : Places a legislative proposition on the statewide ballot for approval by the voters to amend the Chiropractic Initiative Act of California (Act), and replicates the Act, as amended and with provisions that do not conflict with the Act, in the Business and Professions Code, thereby allowing future amendments to the Act through legislation signed by the Governor. Specifically, this bill :

1)Provides that the provisions of this bill become effective only if they are approved by a vote of the electorate on the June 3, 2008 statewide ballot.

2)Requires that protection of the public shall be the highest priority of the State Board of Chiropractic Examiners (BCE) in exercising its licensing, regulatory and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

3)Provides that BCE shall become part of the Department of Consumer Affairs (DCA) just like the 39 other boards and bureaus currently specified as within DCA. (See Business and Professions Code Section 101.)

4)Provides that the Act may be modified or amended by the Legislature (through legislation signed by the Governor).

5)Provides that BCE shall consist of nine members, seven appointed by the Governor, one appointed by the Speaker of the Assembly, and one appointed by the Senate Rules Committee. The gubernatorial appointees shall consist of five "professional" members (chiropractors) and two "public" members (non-chiropractors). Both legislative appointees shall be public members.

6)Requires that the seven BCE members appointed by the Governor shall be subject to Senate confirmation.

7)Provides that the Legislature may "reconstitute" BCE (through legislation signed by the Governor). (Reconstitution results in the removal of BCE members that are then followed by new replacement appointments.)

8)Provides that the DCA Director shall have the authority to approve BCE's appointment of an Executive Director who is exempt from civil service requirements.

9)Requires all BCE meetings to be conducted in accordance with the provisions of the Bagley-Keene Open Meeting Act.

10)Provides that employees of BCE (excluding the Executive Director) shall be subject to the state's civil service requirements.

11)Requires that the Attorney General shall act as legal counsel for BCE.

12)Requires that appropriations for BCE shall be made by the Legislature in the annual Budget Act.

13)Includes intent language to appropriate revenues from the

State Board of Chiropractic Examiners' Fund to pay for the printing costs incurred to place a proposition on the June 3, 2008 statewide ballot.

EXISTING LAW :

1)Pursuant to the Chiropractic Initiative Act of California, prescribes the terms upon which licenses may be issued to practitioners of chiropractic; creates the State Board of Chiropractic Examiners and declares its powers and duties; and, prescribes penalties for violations of the Act.

2)Provides that BCE shall consist of seven members, all appointed by the Governor, and two of whom shall be public members (non-chiropractors).

3)Does not provide that the Legislature may amend the Act, with specified exceptions (e.g., Section 12.5 of the Act permits the Legislature to fix the amounts of the fees payable by

applicants and licensees and the amount of per diem compensation payable to members of BCE). Consequently, amendments to the Act must be made through a statewide ballot measure adopted by the voters.

FISCAL EFFECT : Unknown

COMMENTS :

Background . Over the last few months, there have been numerous press accounts detailing "chaos" at the Board of Chiropractic Examiners and "lawless" actions by its members. On March 28, 2007, the Senate Business, Professions and Economic Development Committee and the Assembly Business and Professions Committee

conducted a joint oversight and investigative hearing focused on the problems at BCE. In addition, the Senate Business, Professions and Economic Development Committee held a second oversight hearing on May 7, 2007.

According to testimony at the March 28th hearing, as well as documents from the Attorney General's Office, and the approved minutes of BCE's meetings over the past year, it appears that several current BCE members have: (1) repeatedly violated the Bagley-Keene Open Meeting Act; (2) improperly attempted to interfere with the continued employment of civil service employees; (3) unlawfully attempted to dismiss the Attorney General as its legal counsel in favor of a private attorney; (4) illegally fired the BCE's Executive Director without affording her statutorily-guaranteed procedural due process rights (to the extent that BCE had to convene a second meeting at which it re-fired her); (5) violated the Administrative Procedure Act (APA) by inviting chiropractors who are the subject of complaints, investigations, or accusations to bypass staff and discuss their enforcement matters directly with BCE members; (6) violated the APA by engaging in underground rulemaking to endorse the participation of chiropractors in a controversial procedure which some healthcare and legal experts argue is the practice of medicine; and (7) improperly attempted to interfere with an ongoing criminal prosecution of a chiropractor accused of the unauthorized practice of medicine.

Purpose of this bill . According to the author's office, the primary purpose of this bill is to give the Legislature the authority to amend or modify laws relating to the licensing, regulation and enforcement of the practice of chiropractic in

order to ensure that consumers are being adequately protected from chiropractors who are providing illegal or inappropriate services. Protection of the public needs to be the highest

priority of BCE and paramount to any other interests of BCE members. At present, the Legislature has little or no control over the activities of BCE and this must be changed.

The author's office also notes that all of the following healing arts boards and bureaus are part of the Department of Consumer Affairs, including the Dental Board, the Medical Board, the Board of Optometry, the Board of Pharmacy, the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians, the Respiratory Care Board, the Acupuncture Board, the Board of Psychology, the Board of Podiatric Medicine, the Physical Therapy Board, the Hearing Aid Dispensers Bureau, the Speech-Language Pathology and Audiology Board, the Board of Occupational Therapy, the Osteopathic Medical Board, and the Bureau of Naturopathic Medicine. The Board of Chiropractic Examiners is the only healing arts board that is not a part of DCA.

In addition to BCE, the Osteopathic Medical Board of California and the State Athletic Commission were both originally created by initiative statutes that did not provide for amendment by the Legislature. Both of these initiative acts were subsequently amended by initiative statutes to allow the Legislature to amend them and to place the Osteopathic Medical Board of California and the State Athletic Commission under DCA. Those initiative statutes are similar to what is being proposed in SB 801.

Support . Writing in support, the Center for Public Interest Law states: "The Center for Public Interest Law (CPIL) strongly supports AB 801 (Ridley-Thomas), which would subject the Board of Chiropractic Examiners (BCE) to the same legislative and executive branch oversight and supervision that apply to other agencies that regulate health care professionals.

"SB 801 (Ridley-Thomas), and its attempt to bring BCE into the regulatory mainstream of California government, is long overdue. Its immediate necessity, however, is illustrated by several recent controversies at the Board which have been well-reported in the media. These controversies have occurred because the Board is subject to no meaningful oversight, training, and/or required accountability by either the legislative or executive branches. BCE lacks accountability because it is neither

vulnerable nor responsive to normal-course checks and balances and oversight provided by either the executive branch or the legislative branch - as are most other occupational licensing agencies."

Opposition . The California Chiropractic Association (CCA) has an "oppose unless amended" position on this bill. CCA writes: "SB 801 goes way beyond legislative oversight and would open the profession up to scope of practice battles without cause."

The primary focus of the opposition is that this bill would allow future amendments to chiropractors' scope of practice. CCA's July 2, 2007 letter makes four points that can be summarized as follows:

"1) Voters in California approved a ballot measure that specifically prohibited legislative amendments because it was necessary to ensure access to chiropractic treatment?.there is no example of a problem that provides a reason to eliminate the voter-enacted protections for the chiropractic scope of practice. Without even a single example of a problem related to scope, the bill should be amended to provide appropriate legislative oversight, but exclude future amendments to the chiropractic scope of practice.

"2) The nature of chiropractic treatment makes it especially vulnerable to scope of practice battles. Scope of practice battles between other health care providers generally come down to a question of which provider is properly trained for what procedure?.The battles between medical doctors and doctors of chiropractic, however, are much deeper because it is over the very philosophy of how a condition should be treated?.

"3) ?As more scientific evidence is released about the benefits from chiropractic treatment, we are seeing more aggressive political attacks to limit access to chiropractic care.

"4) The scope of practice of chiropractic should not be subject to legislative amendment because the medical profession has announced it is gearing up for an attack on the chiropractic profession?.CCA does not believe such a drastic step is necessary for effective legislative oversight."

Possible amendments . This bill is one of two very similar proposals designed to reform BCE. The companion measure is AB

1137 authored by Assemblymember Eng. During the last several weeks, Senator Ridley-Thomas, Assemblymember Eng, legislative staff, consumer advocates, and representatives of the chiropractic profession have engaged in extensive discussions regarding SB 801 and AB 1137. Two dominant themes have emerged from these discussions. First, the authors maintain that there is a profound need to bring accountability and oversight to BCE. Second, representatives of the chiropractic profession firmly believe that allowing "unfettered" amendments (especially possible changes affecting scope of practice) to the Chiropractic Initiative Act of 1922 will seriously jeopardize their profession in California.

So the question becomes: Can genuine accountability and oversight for BCE be enacted in legislation that also addresses the most fundamental concern of the chiropractic profession? The following discussion addresses this question.

The chiropractic profession's primary concern with SB 801 and AB 1137 can be summed up in three words - scope of practice. Like all healthcare providers, the definition of a chiropractor's scope of practice determines the nature and extent of the work that a chiropractor may perform. So the great concern about the proposed bills is that they might allow future changes to scope of practice that could significantly narrow or severely restrict

a chiropractor's professional abilities.

It is important to note that the proposed bills, in and of themselves, do _not_ affect a chiropractor's scope of practice, and both authors have made it clear that the focus of their legislation is on BCE and the actions of its members, not on the chiropractic profession or scope of practice. Nevertheless, as currently drafted, these bills would allow _future_ changes to scope of practice in two ways. First, future legislatures could pass a bill, signed by the Governor, to amend scope of practice. Second, the Director of DCA could reject or presumably demand modifications to regulations related to scope of practice that have been adopted by BCE. (This latter possibility could result from the fact that the proposed bills would place BCE within DCA, and the Director of DCA currently has the authority to approve a licensing board's proposed regulations.)

The question that now presents itself is whether or not scope of practice should be retained in the proposed bills. That is, should the chiropractic profession's scope of practice be

subject to "direct" amendments by future legislatures and "indirect" amendments by future DCA Directors?

The major argument in favor of allowing future direct and indirect amendments to the scope of practice for chiropractors is that all other DCA healthcare licensing boards are subject to the same types of amendments, and BCE should be treated in a similar manner. This argument is bolstered by noting that scope of practice issues are extremely important to patients and consumers throughout the state, as well as chiropractors themselves, and the Legislature is the appropriate authority to review these issues and make necessary revisions. Finally, it can be argued that 85 years have passed since the Chiropractic Initiative Act was adopted in California. Chiropractic is an

embedded and recognized healthcare profession that no longer needs the types of protections that presumably were justified in 1922.

The foregoing arguments produce a potent case for allowing the Legislative and Executive branches of state government to make future amendments to chiropractors' scope of practice. But there also are potent counter-arguments.

The most important argument against allowing future direct and indirect amendments to chiropractors' scope of practice pertains to the genesis and focus of the proposed bills. Both bills are the result of numerous verified and unacceptable actions by BCE members - actions described as "lawless" in the press and as "gross errors in judgement" by the BCE president during his apologetic testimony at the March 28, 2007 joint legislative oversight hearing.

The inappropriate actions of the BCE members are noted in the "Background" discussion above and can be briefly summarized again, as follows: (1) violating the Open Meeting Act; (2) interfering with civil service rules; (3) attempting to dismiss the Attorney General as legal counsel in favor of a private attorney; (4) illegally firing the Executive Director; (5) violating the Administrative Procedure Act in connection with open complaints, investigations, and accusations; (6) violating the APA by engaging in underground rulemaking; and, (7) improperly attempting to interfere with an ongoing criminal prosecution.

BCE's multiple improprieties and illegalities provide a powerful

justification for the need to bring about accountability and oversight. But what do these actions have to do with scope of

practice? The answer is - nothing. With one exception, none of the improprieties and illegalities listed above have anything to do with scope of practice, and the one exception provides a useful illustration of what the proposed bills are, and are not, focused on.

The one scope of practice issue related to the actions of the BCE members is manipulation under anesthesia, or MUA. MUA is spinal manipulation performed while a patient is under anesthesia. In March of 2007, the BCE members voted to adopt a resolution reaffirming BCE's longstanding position that MUA is within the scope of practice of qualified chiropractors. But there were two problems with the adoption of this resolution. First, it is inappropriate for a licensing board to use resolutions as a method of making pronouncements about scope of practice because this circumvents the requirements of the Administrative Procedure Act. Instead, a board should adopt a regulation that must be submitted to and approved by the Office of Administrative Law (OAL), pursuant to the APA. This administrative procedure is designed to ensure that a board is following the law, staying within its delegated authority, and not engaging in underground rulemaking. The second problem associated with the MUA resolution is that just before the BCE members adopted it, they received testimony that they should vote for it because of a "wayward" prosecutor (i.e., a district attorney who was currently prosecuting a case involving MUA). Regardless of the serious and debatable legal questions raised by this action, there is no question that the appearance associated with the action is awful.

As it relates to the question of including or excluding provisions in the proposed bills that would allow future amendments to scope of practice, BCE's controversial adoption of the MUA resolution illustrates two revealing points. First, although MUA is very much a scope of practice issue, MUA is neither addressed in nor conceptually relevant to the bills. Whether MUA is in or out of a chiropractor's scope of practice is simply a non-issue as far as these bills are concerned. Second, what are, in fact, relevant issues are _how_ the BCE members acted (adopting a resolution instead of a regulation) and _why_ (appearing to attempt to interfere with an ongoing prosecution). These issues are addressed by the bills (which would allow future legislatures and DCA to take remedial

action), and these issues will continue to be addressed by the bills regardless of whether or not the bills contain provisions allowing for future amendments to scope of practice.

In summary, it is fair to say that the inclusion or exclusion of provisions in SB 801 and/or AB 1137 allowing future direct or indirect amendments to the scope of practice of chiropractors will not have any effect on the ability to address the types of actions of BCE members that generated the original controversy and resulted in the introduction of the bills. An easy argument can be made that it would be logical and consistent with the treatment of other occupational licensing boards to grant future authority to the Legislative and Executive branches of state government to modify or influence the scope of practice of the chiropractic profession. But an equally effective argument can be made that such authority is not necessary in order to accomplish the stated goals of these bills; namely, to bring genuine accountability and oversight to the California Board of Chiropractic Examiners .

In light of the foregoing, two possible and substantive amendments to SB 801 could be considered, although no final decision has been made about the adoption of these amendments:

1)Retain the ability of future legislatures to amend the Chiropractic Initiative Act, except for those provisions pertaining to chiropractic scope of practice. This can be accomplished by not codifying the scope of practice provisions of the Chiropractic Initiative Act in the Business and Professions Code and, instead, retaining the scope of practice provisions only in the Act itself. Specifically, Section 18 on Page 13 can be deleted, and Section 28 on Page 18 can be deleted.

In addition, in Section 38 of this bill, on Page 24, beginning on Line 25, the following sentence could be deleted: "In

addition to the power to amend or modify, the Legislature shall have the power to repeal this act, as amended, in its entirety" and, instead, the following sentence could be inserted: "Notwithstanding any other provision of law, the power of the Legislature to amend this act shall not apply to the scope of practice of a doctor of chiropractic."

2)Retain provisions that place BCE within DCA, and retain the DCA Director's ability to review and comment on all

regulations adopted by BCE including regulations related to scope of practice, and retain the DCA Director's ability to reject proposed regulations, except that the DCA Director shall not have the authority to reject regulations pertaining to scope of practice.

Although no definitive decisions have been made about adopting the foregoing two possible amendments, they would be significant because they respond to the chiropractic profession's major concern about allowing future changes to scope of practice. Also, there are no definitive decisions about adopting other possible amendments to address additional concerns and bring this bill into closer conformity with its companion measure, AB 1137 (Eng). Other possible amendments include:

1)Revise the membership of BCE as follows: There shall be a total of seven members consisting of four professional members (chiropractors) and three public members (non-chiropractors). Five members shall be appointed by the Governor consisting of four professional members and one public member. One public member shall be appointed by the Senate Rules Committee and one public member shall be appointed by the Speaker of the Assembly.

2)Clarify that BCE's relationship with the Attorney General shall not limit BCE's ability to contract for legal services with the Department of Consumer Affairs and shall be consistent with the relationship between the Attorney General and other boards, pursuant to applicable provisions of current law, including Government Code Section 11040.

3)Conform Section 8 of the Act and Section 17 of this bill with the Americans with Disabilities Act by deleting references to blind persons and instead making references to persons with a disability as defined by the federal Americans with Disabilities Act of 1990.

4)Replace all references in the Act and this bill to "chiropractor" with "doctor of chiropractic."

5)Correct a cross-referencing error in Section 19, Page 13, Line 40 as follows: "provisions of Chapter 4.5 3.5 (commencing with Section 11400 11340) of". Also make the corresponding change in Section 34, Page 20, Line 23.

Related bill . AB 1137 (Eng) of 2007 is a companion measure and very similar to SB 801.
AB 1137 is currently scheduled to be heard on July 9th in the Senate Business, Professions and Economic Development Committee.

REGISTERED SUPPORT / OPPOSITION :

Support

Center for Public Interest Law

Opposition

California Chiropractic Association

Analysis Prepared by : Jay Greenwood / B. & P. / (916) 319-3301

CURRENT BILL STATUS

MEASURE : S.B. No. 801
AUTHOR(S) : Ridley-Thomas (Principal coauthor: Assembly Member Eng).
TOPIC : Chiropractors.
HOUSE LOCATION : ASM
+LAST AMENDED DATE : 06/04/2007

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 07/10/2007
LAST HIST. ACTION : From committee: Do pass, but first be re-referred to Com. on APPR. (Ayes 6. Noes 3.) Re-referred to Com. on APPR.
COMM. LOCATION : ASM APPROPRIATIONS

TITLE : An act to amend Section 101 of, to amend, renumber, and add Sections 1000, 1001, 1002, 1003, 1004, and 1005 of, and to add Sections 1006, 1006.5, 1007, 1008, 1009, 1010, 1012, 1012.5, 1013, 1014, 1015, 1016, 1017, 1018, 1018.5, and 1019 to, the Business and Professions Code, and to amend an initiative act entitled "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation thereof, and repealing all acts and parts of acts inconsistent therewith" approved by electors November 7, 1922, by amending Sections 1, 2, 3, 4, 6, and 14 thereof and adding Sections 1.5, 6.5, and 18.5 thereto, relating to chiropractors.

AMENDED IN ASSEMBLY JUNE 4, 2007

AMENDED IN ASSEMBLY MAY 8, 2007

AMENDED IN ASSEMBLY APRIL 30, 2007

AMENDED IN ASSEMBLY APRIL 16, 2007

AMENDED IN ASSEMBLY MARCH 27, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL No. 1137

Introduced by Assembly Member Eng
(Principal coauthor: Senator Ridley-Thomas)

February 23, 2007

An act to amend Section 101 of, to amend, renumber, and add Sections 1000, 1001, 1002, 1003, 1004, and 1005 of, and to add Sections 1006, 1006.5, 1007, 1008, 1009, 1010, 1011, 1012, 1012.5, 1013, 1014, 1015, 1016, 1017, 1018, 1018.5, and 1019 to, the Business and Professions Code, and to amend an initiative act entitled "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the ~~State Board of Chiropractic Examiners~~ *state board of chiropractic examiners* and declaring its powers and duties, prescribing penalties for violation thereof, and repealing all acts and parts of acts inconsistent therewith" approved by electors November 7, 1922, by amending Sections 1, 2, 3, 4, 6, and 14 thereof and adding ~~Section~~ *Sections* 1.5, 6.5, 11, and 18.5 thereto, relating to chiropractors.

LEGISLATIVE COUNSEL'S DIGEST

AB 1137, as amended, Eng. Chiropractors.

Existing law, the Chiropractic Act, enacted by initiative, provides for the licensing and regulation of chiropractors by the State Board of Chiropractic Examiners, which is composed of 7 members appointed by the Governor. Under the act, the board is required to employ an executive officer. Existing law establishes the Department of Consumer Affairs in the State and Consumer Services Agency, and the department is composed of various boards that regulate members of professions, including the healing arts and vocations.

This bill would include the board in the Department of Consumer Affairs. The bill would reduce the number of members appointed by the Governor to 5, including 2 public members, and would specify that 1 public member be appointed by the Senate Committee on Rules and 1 public member by the Speaker of the Assembly, and would require the members appointed by the Governor to be confirmed by the Senate. The bill would exempt the executive officer from civil service and would specify that other employees of the board are subject to those provisions. The bill would also specify that protection of the public is the highest priority of the board. The bill would provide that the Attorney General be legal counsel for the board, and that the board be subject to specified meeting and disclosure requirements and procedures for disciplinary actions. The bill would also require that all appropriations from the State Board of Chiropractic Examiners' Fund be made by the Legislature in the annual Budget Act. The bill would allow the Legislature to amend the act by a majority vote.

Because the bill would amend an initiative act, the bill would require certain of its provisions be submitted to the voters for approval *on the June 3, 2008, primary election ballot*. The bill would also codify the provisions of the Chiropractic Act, as amended by this act, which codification would be operative only if the amendments to the initiative act are approved by the voters.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The voters of California approved an initiative measure at the General Election held on November 7, 1922, that authorized the practice of chiropractic in California and created the State

Board of Chiropractic Examiners to regulate the chiropractic profession in the public interest.

(b) Because that act is an initiative statute with no provision for its amendment by the Legislature, subdivision (c) of Section 10 of Article II of the California Constitution requires that it be amended only by way of another statute approved by the voters.

(c) The inability of the legislative branch of state government to amend the initiative statute governing the State Board of Chiropractic Examiners has prevented it from exercising the same level of oversight, checks and balances, spending review, and public accountability that apply to other boards that regulate health care professions, including physicians and surgeons, osteopathic physicians, nurses, pharmacists, and acupuncturists.

(d) Practitioners of chiropractic have become confused by court decisions, including Tain v. Board of Chiropractic Examiners (2005) 130 Cal.App.4th 609, that held that Section 7 of the Chiropractic Act limits authorized chiropractic healing practices to those taught in chiropractic schools at the time of the enactment of the act in 1922, and that authorization may not be enlarged by any changes to the curriculum of those schools.

(e) The Legislature has attempted to apply to chiropractors numerous provisions of the Business and Professions Code that currently apply to other health care professions, including Sections 650 and 1005, the validity of which is unclear under subdivision (c) of Section 10 of Article II of the California Constitution.

(f) The practice of chiropractic merits the same level of executive and legislative branch oversight as the practices of medicine, nursing, podiatric medicine, optometry, and pharmacy.

SEC. 2. Section 101 of the Business and Professions Code is amended to read:

101. The department is comprised of:

(a) The Dental Board of California.

(b) The Medical Board of California.

(c) The State Board of Optometry.

(d) The California State Board of Pharmacy.

(e) The Veterinary Medical Board.

(f) The California Board of Accountancy.

(g) The California Architects Board.

(h) The Bureau of Barbering and Cosmetology.

(i) The Board for Professional Engineers and Land Surveyors.

(j) The Contractors' State License Board.

(k) The Bureau for Private Postsecondary and Vocational Education.

(*l*) The Structural Pest Control Board.

(m) The Bureau of Home Furnishings and Thermal Insulation.

(n) The Board of Registered Nursing.

(o) The Board of Behavioral Sciences.

(p) The State Athletic Commission.

(q) The Cemetery and Funeral Bureau.

(r) The State Board of Guide Dogs for the Blind.

(s) The Bureau of Security and Investigative Services.

(t) The Court Reporters Board of California.

(u) The Board of Vocational Nursing and Psychiatric Technicians.

(v) The Landscape Architects Technical Committee.

(w) The Bureau of Electronic and Appliance Repair.

(x) The Division of Investigation.

(y) The Bureau of Automotive Repair.

(z) The State Board of Registration for Geologists and Geophysicists.

(aa) The Respiratory Care Board of California.

(ab) The Acupuncture Board.

(ac) The Board of Psychology.

(ad) The California Board of Podiatric Medicine.

(ae) The Physical Therapy Board of California.

(af) The Arbitration Review Program.

(ag) The Committee on Dental Auxiliaries.

(ah) The Hearing Aid Dispensers Bureau.

(ai) The Physician Assistant Committee.

(aj) The Speech-Language Pathology and Audiology Board.

(ak) The California Board of Occupational Therapy.

~~(al)~~

(al) The Osteopathic Medical Board of California.

(am) The Bureau of Naturopathic Medicine.

(an) The State Board of Chiropractic Examiners.

(ao) Any other boards, offices, or officers subject to its jurisdiction by law.

SEC. 3. Section 1000 of the Business and Professions Code is amended and renumbered to read:

1030. The law governing practitioners of chiropractic is found in this chapter and in an initiative act entitled "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation hereof, and repealing all acts and parts of acts inconsistent herewith," adopted by the electors November 7, 1922.

SEC. 4. Section 1000 is added to the Business and Professions Code, to read:

1000. A board is hereby created to be known as the "State Board of Chiropractic Examiners," hereinafter referred to as the board. The board shall consist of seven members. Five members shall be appointed by the Governor, subject to confirmation by the Senate, two of whom shall be public members. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint one public member. Each member shall be a citizen of the United States and shall have been a resident of California for five years. Each licensee member shall have had at least five years of licensure in this state prior to appointment. Each licensee member must have pursued a resident course in an approved chiropractic school or college, and must be a graduate thereof and hold a diploma therefrom.

Not more than two persons shall serve simultaneously as members of the board, whose first diplomas were issued by the same school or college of chiropractic, nor shall more than two members be residents of any one county of the state. And no person who is, or within one year of the proposed appointment has been, an administrator, policy board member, or paid employee of any chiropractic school or college shall be eligible for appointment to the board. Each member of the board shall receive a per diem in the amount provided in Section 103 for each day during which he or she is actually engaged in the discharge of his or her duties, together with his or her actual and necessary travel expenses incurred in connection with the performance of the duties of his or her office, and the per diem, travel expenses and other incidental expenses of the board or of its members shall be paid out of the funds of the board hereinafter defined and not from the state's taxes.

The Legislature may, upon review, repeal this section and reconstitute the board.

SEC. 5. Section 1001 of the Business and Professions Code is amended and renumbered to read:

1031. In each year, the State Board of Chiropractic Examiners shall compile and may thereafter publish and sell a complete directory of all persons within the state who hold unforfeited and unrevoked certificates to practice chiropractic, and whose certificate in any manner authorizes the treatment of human beings for diseases, injuries, deformities, or any other physical or mental conditions.

The directory shall contain:

(a) The following information concerning each such person:

~~1.~~

(1) The name and address of the person.

~~2.~~

(2) The names and symbols indicating his or her title.

~~3.~~

(3) The school, attendance at which qualified him or her for examination or admission to practice.

~~4.~~

(4) The date of the issuance of his or her certificate.

(b) The annual report of the board for the prior year.

(c) Information relating to other laws of this state and the United States that the board determines to be of interest to persons licensed to practice chiropractic.

(d) Copies of opinions of the Attorney General relating to the practice of chiropractic.

(e) A copy of the provisions of this chapter.

The board may require the persons designated in this section to furnish information as it may deem necessary to enable it to compile the directory. Every person so designated shall report immediately each and every change of residence, giving both his or her old and new address.

The directory shall be evidence of the right of the persons named in it to practice unless his or her certificate to practice chiropractic has been canceled, suspended or revoked. The board may collect from each person who voluntarily subscribes to or purchases a copy of the directory the cost of publication and distribution thereof; except that one copy of the directory shall be distributed without charge to each certificate holder of the board.

SEC. 6. Section 1001 is added to the Business and Professions Code, to read:

1001. Protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with the other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 7. Section 1002 of the Business and Professions Code is amended and renumbered to read:

1032. Whenever any person has engaged in or is about to engage in any acts or practices that constitute or will constitute an offense against this chapter or rules or regulations adopted pursuant to this chapter, the superior court of any county, on application of the State Board of Chiropractic Examiners, or on application of 10 or more licensees of the State Board of Chiropractic Examiners may issue an injunction or other appropriate order restraining that conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 8. Section 1002 is added to the Business and Professions Code, to read:

1002. Each appointment to the board shall be for the term of four years, except that an appointment to fill a vacancy shall be for the unexpired term only. Each member shall serve until his or her successor has been appointed and qualified or until one year has elapsed since the expiration of his or her term whichever first occurs. No person shall serve more than two consecutive terms on the board nor be eligible for appointment thereafter until the expiration of four years from the expiration of the second consecutive term, effective January 2, 1974. The Governor may remove a member from the board after receiving sufficient proof of the inability or misconduct of the member.

SEC. 9. Section 1003 of the Business and Professions Code is amended and renumbered to read:

1033. (a) Except as otherwise allowed by law, the employment of runners, cappers, steerers, or other persons to procure patients constitutes unprofessional conduct.

(b) A licensee of the State Board of Chiropractic Examiners shall have his or her license to practice revoked for a period of 10 years upon a second conviction for violating any of the following

provisions or upon being convicted of more than one count of violating any of the following provisions in a single case: Section 650 of this code, Section 750 or 1871.4 of the Insurance Code, or Section 549 or 550 of the Penal Code. After the expiration of this 10-year period, an application for license reinstatement may be made pursuant to subdivision (c) of Section 1010.

SEC. 10. Section 1003 is added to the Business and Professions Code, to read:

1003. The board shall elect a chairman and a vice chairman and a secretary to be chosen from the members of the board. The board shall appoint a person exempt from civil service, by and with the approval of the Director of Consumer Affairs, to be designated as an executive officer. Elections of the officers shall occur annually at the January meeting of the board. A majority of the board shall constitute a quorum.

It shall require the affirmative vote of four members of the board to carry any motion or resolution, to adopt any rule, or to authorize the issuance of any license provided for in this chapter. The executive officer shall receive a salary to be fixed by the board, with the approval of the Director of Finance, together with his or her actual and necessary traveling expenses incurred in connection with the performance of the duties of his or her office, and shall give bond to the state in a sum and with such sureties as the board may deem proper. He or she shall keep a record of the proceedings of the board, which shall at times during business hours be open to the public for inspection. He or she shall keep a true and accurate account of all funds received and of all expenditures incurred or authorized by the board, and on the first day of December of each year he or she shall file with the Governor, or his or her designee, a report of all receipts and disbursements and of the proceedings of the board for the preceding fiscal year.

SEC. 11. Section 1004 of the Business and Professions Code is amended and renumbered to read:

1034. The State Board of Chiropractic Examiners shall investigate any licensee against whom an information or indictment has been filed that alleges a violation of Section 550 of the Penal Code or Section 1871.4 of the Insurance Code, if the district attorney does not otherwise object to initiating an investigation.

SEC. 12. Section 1004 is added to the Business and Professions Code, to read:

1004. Powers of board. The board shall have power:

(a) To adopt a seal, which shall be affixed to all licenses issued by the board.

(b) To adopt from time to time rules and regulations as the board may deem proper and necessary for the performance of its work, the effective enforcement and administration of this chapter, the establishment of educational requirements for license renewal, and the protection of the public. These rules and regulations shall be adopted, amended, repealed and established in accordance with the provisions of Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code as it now reads or as it may be hereafter amended by the Legislature.

(c) To examine applicants and to issue and revoke licenses to practice chiropractic, as provided in this chapter.

(d) To summon witnesses and to take testimony as to matters pertaining to its duties; and each member shall have power to administer oaths and take affidavits.

(e) To do any and all things necessary or incidental to the exercise of the powers and duties granted or imposed by this chapter.

(f) To determine minimum requirements for teachers in chiropractic schools and colleges.

(g) To approve chiropractic schools and colleges whose graduates may apply for licenses in this state. The following shall be eligible for approval:

(1) Any chiropractic school or college having status with the accrediting agency and meeting the requirements of Section 1005 and the rules and regulations adopted by the board.

(2) Any chiropractic school or college initially commencing instruction prior to November 2, 1976, provided that the school or college meets the requirements of Section 1005 and the rules and regulations adopted by the board and provided that the school or college attained status with the accrediting agency within a time period commencing on November 7, 1978, and ending March 1, 1980.

(3) Any chiropractic school or college initially commencing instruction subsequent to November 2, 1976, provided that the school or college meets the requirements of Section 1005 and the rules and regulations adopted by the board and provided that the school or college attains status with the accrediting agency within

a time period not exceeding three years following the commencement of instruction.

Upon submission of evidence satisfactory to the board that the accrediting agency has unreasonably denied status to a chiropractic school or college approved under paragraph (2) or (3) of this subdivision by not considering the application for status submitted by that school or college in a timely manner, by denying the application for status submitted by that school or college without good cause, or by imposing arbitrary and capricious additional requirements upon that school or college as conditions for the attainment of status, the board shall grant an extension of the time period for the attainment of status specified in the paragraph under which that school or college is approved, as it applies to that school or college, of at least six months but no more than one year. Prior to the expiration of the extension or of any additional extension the board grants, the board shall determine whether that school or college has been unreasonably denied status by the accrediting agency for any of the reasons specified in the immediately preceding sentence during the extension. Should the board determine that unreasonable denial of status during the extension has occurred, the board shall grant an additional extension of the time period for the attainment of status, as it applies to that school or college, of at least six months but no more than one year.

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(h) As used in this section, "accrediting agency" means (1) the Accrediting Commission of the Council on Chiropractic Education, other chiropractic school and college accrediting agencies as may be recognized by the United States Commissioner of Education, or chiropractic school and college accrediting agencies employing equivalent standards for accreditation as determined by the board, (2) if the commission ceases to exist or ceases to be recognized by the commissioner, a chiropractic school and college accrediting agency as may be designated by the board or chiropractic school and college accrediting agencies employing equivalent standards for accreditation as determined by the board, or (3) if the commission ceases to exist or ceases to be recognized by the commissioner, no other accrediting agency is recognized by the commissioner, and no accrediting agency is acceptable to the board, the board.

As used in this section, "status" means correspondent status, status as a recognized candidate for accreditation, accredited status, or other similar status as may be adopted and used by the accrediting agency.

As used in this section, "in a timely manner" means within the time deadlines as may be established by the accrediting agency for submission of applications, consideration of applications submitted, acceptance or rejection of applications submitted, and other similar functions, as those time deadlines are interpreted by the board.

As used in this section, "without good cause" means not in accordance with rules and regulations that may be established by the accrediting agency as conditions for the attainment of status, as those rules and regulations are interpreted by the board.

As used in this section, "arbitrary and capricious additional requirements" means requirements that may be imposed by the accrediting agency as conditions for the attainment of status during the time period specified for the attainment of status by a chiropractic school or college that, in the board's judgment, cannot be satisfied within the time period or do not serve to improve the educational standards or quality of the school or college.

~~(h)~~

(i) The board may employ any investigators, clerical assistants, commissioners on examination, and other employees as it may deem necessary to carry into effect the provisions of this chapter, and shall prescribe the duties of those employees. Persons employed pursuant to this subdivision shall be subject to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 5 of the Government Code).

SEC. 13. Section 1005 of the Business and Professions Code is amended and renumbered to read:

1035. The provisions of Sections 12.5, 23.9, 29.5, 30, 31, 35, 104, 114, 115, 119, 121, 121.5, 125, 125.6, 136, 137, 140, 141, 143, 163.5, 461, 462, 475, 480, 484, 485, 487, 489, 490, 490.5, 491, 494, 495, 496, 498, 499, 510, 511, 512, 701, 702, 703, 704, 710, 716, 730.5, 731, and 851 are applicable to persons licensed by the State Board of Chiropractic Examiners.

SEC. 14. Section 1005 is added to the Business and Professions Code, to read:

1005. It shall be unlawful for any person to practice chiropractic in this state without a license to do so. Any person wishing to practice chiropractic in this state shall make application to the board 45 days prior to any meeting thereof, in a form and manner provided by the board. Proof of graduation from an approved chiropractic school or college, as defined in Section 1004, shall be received by the board 15 days prior to any meeting of the board. Each application shall be accompanied by a license fee of not more than one hundred dollars ($100), as determined by the board. Except as otherwise provided in this chapter, each applicant shall present to the board at the time of making an application a diploma from a high school and a transcript of 60 prechiropractic college credits satisfactory to the board, or proof, satisfactory to the board, of education equivalent in training power to such high school and college courses.

The schedule of minimum educational requirements to enable any person to practice chiropractic in this state shall be as provided in Section 5 of the Chiropractic Act, except as otherwise provided in this chapter.

Any applicant who had matriculated at a chiropractic college prior to the effective date of the amendments to Section 5 of the Chiropractic Act submitted to the electors by the ~~1977–1978~~ *1977–78* Regular Session of the Legislature shall meet all requirements that existed immediately prior to the effective date of those amendments but need not meet the change in requirements made by those amendments.

SEC. 15. Section 1006 is added to the Business and Professions Code, to read:

1006. (a) The office of the board shall be in the City of Sacramento. Suboffices may be established in Los Angeles and San Francisco, and any records as may be necessary may be transferred temporarily to the suboffices. Legal proceedings against the board may be instituted in any one of the three cities.

(b) All meetings of the board shall be conducted in accordance with the provisions of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(c) The board shall meet as a board of examiners at least twice each calendar year, at times and places as may be found necessary for the performance of its duties.

(d) The board shall comply with the requirements of Chapter 22.5 (commencing with Section 7528) of Division 7 of Title 1 of the Government Code and with the provisions of Article 10 (commencing with Section 11364) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(e) Examinations shall be written, oral, and practical, covering chiropractic as taught in chiropractic schools or colleges, designed to ascertain the fitness of the applicant to practice chiropractic. The examination shall include at least each of the subjects as set forth in Section 5 of the Chiropractic Act. Identity of the applicants shall not be disclosed to the examiners until after examinations have been given final grades. A license shall be granted to any applicant who makes a general average of 75 percent, and does not fall below 60 percent in more than two subjects or branches of the examination and receives a 75 percent score in all parts of the practical examination as designated by the board. Any applicant failing to make the required grade shall be given credit for the branches passed, and may, without further cost, take the examination at the next regular examination on the subjects in which he or she failed. For each year of actual practice since graduation, the applicant shall be given a credit of 1 percent on the general average.

(f) An applicant having fulfilled the requirements of Section 1005 and paid the fee thereunder, and having obtained a diplomate certificate from the National Board of Chiropractic Examiners, may offer the certificate together with a transcript of grades secured in the national board examination, and the California Board of Chiropractic Examiners may accept those in lieu of all or a portion of the California board examination, as determined by the board.

SEC. 16. Section 1006.5 is added to the Business and Professions Code, to read:

1006.5. The Attorney General shall act as legal counsel for the board and shall represent the board in any judicial and administrative proceeding. His or her services shall be a charge against the board.

SEC. 17. Section 1007 is added to the Business and Professions Code, to read:

1007. One form of certificate shall be issued by the State Board of Chiropractic Examiners, which shall be designated “License to practice chiropractic,” and shall authorize the holder thereof to

practice chiropractic in the state of California as taught in chiropractic schools or colleges; and, also, to use all necessary mechanical, and hygienic and sanitary measures incident to the care of the body, but shall not authorize the practice of medicine, surgery, osteopathic medicine, dentistry or optometry, nor the use of any drug or medicine now or hereafter included in materia medica.

SEC. 18. Section 1008 is added to the Business and Professions Code, to read:

1008. No blind person shall be denied admission into any college or school of chiropractic or denied the right to take any examination given by such school or college or denied a diploma or certificate of graduation or a degree or denied admission into any examination for a state license or denied a regular license to practice chiropractic on the ground that he or she is blind.

SEC. 19. Section 1009 is added to the Business and Professions Code, to read:

1009. Notwithstanding any provision of this chapter, the board, upon receipt of the fee specified in Section 1005, shall issue a license to any person licensed to practice chiropractic under the laws of another state, provided that the state then had the same general requirements as required in this state at the time the license was issued and provided that the other state in like manner grants reciprocal registration to chiropractic practitioners of this state.

The applicant shall also provide a certificate from the other state stating that he or she was licensed by that state, that he or she has not been convicted of unprofessional conduct, and that there is no charge of unprofessional conduct pending against him or her.

SEC. 20. Section 1010 is added to the Business and Professions Code, to read:

1010. (a) The board may by rule or regulation adopt, amend, or repeal rules of professional conduct appropriate to the establishment and maintenance of a high standard of professional service and the protection of the public. These rules or regulations shall be adopted, amended, or repealed in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code as it now reads or as it may be hereafter amended.

(b) The board may refuse to grant, or may suspend or revoke, a license to practice chiropractic in this state, or may place the

licensee upon probation or issue a reprimand to him or her, for violation of the rules and regulations adopted by the board in accordance with this chapter, or for any cause specified in this chapter, including, but not limited to: The employment of fraud or deception in applying for a license or in passing an examination as provided in this chapter; the practice of chiropractic under a false or assumed name; or the personation of another practitioner of like or different name; a plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense substantially related to the practice of chiropractic; habitual intemperance in the use of ardent spirits, narcotics or stimulants to such an extent as to incapacitate him or her for the performance of his or her professional duties; the advertising of any means whereby the monthly periods of women can be regulated or the menses reestablished if suppressed; or the advertising, directly, indirectly or in substance, upon any card, sign, newspaper advertisement, or other written or printed sign or advertisement, that the holder of such license or any other person, company or association by which he or she is employed, or in whose services he or she is, will treat, cure, or attempt to treat or cure, any venereal disease, or will treat or cure, or attempt to treat or cure, any person afflicted with any sexual disease, for lost manhood, sexual weakness or sexual disorder or any disease of the sexual organs; or being employed by, or being in the service of any person, company or association so advertising. The proceedings for the refusal to grant, suspension or revocation of a license upon any of the foregoing grounds shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code as it now reads or as it may be hereafter amended, and the board shall have all the powers granted therein. The secretary of the board on all cases of revocation shall enter on his or her register the fact of the revocation, and shall certify the fact of the revocation under the seal of the board to the county clerk of the counties in which the certificates of the person whose certificate has been revoked is recorded; and the clerk shall write upon the margin or across the face of his or her register of the certificate of the person the following: “This certificate was revoked on the _____ day of _____,” giving the day, month, and year of the revocation in accordance with the certification to him or her by the secretary.

The record of revocation made by the county clerk shall be prima facie evidence of the fact thereof, and of the regularity of all proceedings of the board in the matter of the revocation.

(c) At any time after two years following the revocation or cancellation of a license or registration under this section, the board may, by a majority vote, reissue a license to the person affected, restoring him or her to, or conferring on him or her all the rights and privileges granted by his or her original license or certificate. Any person to whom such rights have been restored shall pay to the secretary the fee specified in Section 1005 upon the issuance of a new license.

SEC. 21. Section 1011 is added to the Business and Professions Code, to read:

1011. (a) All proceedings related to the refusal to grant, or to the suspension or revocation of, a license, or for the reissuance or reinstatement of a license that has been suspended or revoked, or for the disciplining of licensees shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

(b) In reaching a decision on a disciplinary action, the board shall consider the disciplinary guidelines entitled "Disciplinary Guidelines and Model Disciplinary Orders" [revised October 21, 2004], which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate if the board in its sole discretion determines that the facts of the particular case warrant the deviation; for example, the presence of mitigating factors, the age of the case, and evidentiary problems.

(c) Any proposed decision or decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee has a second separate conviction for fraud, shall contain an order of revocation that shall not be stayed.

SEC. 22. Section 1012 is added to the Business and Professions Code, to read:

1012. Licenses issued under the provisions of this section expire at midnight on the last day of the month of birth of licentiates of the board.

The board shall establish regulations for the administration of a birth month renewal program. Each person practicing chiropractic within this state shall, on or before the last day of their month of birth of each year, after a license is issued to them as herein provided, pay to the State Board of Chiropractic Examiners a renewal fee of not more than one hundred fifty dollars ($150) as determined by the board. The secretary shall mail to all licensed chiropractors in this state, on or before 60 days prior to the last day of the month of their birth each year, a notice that the renewal fee will be due on or before the last day of the month of their birth next following. Nothing in this chapter shall be construed to require the receipts to be recorded in like manner as original licenses. The failure, neglect, or refusal of any person holding a license or certificate to practice under this chapter in the State of California to pay the annual fee during the time his or her license remains in force shall, after a period of 60 days from the last day of the month of his or her birth automatically work a forfeiture of his or her license or certificate, and it shall not be restored except upon the written application and the payment to the board of a fee of twice the annual amount of the renewal fee in effect at the time the restoration application is filed, except that a licensee who fails, refuses, or neglects to pay the annual ~~tax~~ *fee* within a period of 60 days after the last day of the month of his or her birth of each year shall not be required to submit to an examination for the reissuance of the certificate.

SEC. 23. Section 1012.5 is added to the Business and Professions Code, to read:

1012.5. The Legislature may by law fix the amounts of the fees payable by applicants and licensees and the amount of the per diem compensation payable to members of the board.

SEC. 24. Section 1013 is added to the Business and Professions Code, to read:

1013. Chiropractic licensees shall observe and be subject to all state and municipal regulations relating to all matters pertaining to the public health, and shall sign death certificates and make reports as required by law to the proper authorities, and those reports shall be accepted by the officers of the departments to which they are made.

SEC. 25. Section 1014 is added to the Business and Professions Code, to read:

1014. The executive officer shall at the end of each month report to the Controller the total amount of money received by the board from all sources, and shall deposit with the Treasurer the entire amount of those receipts, and the Treasurer shall place the money so received in a special fund, to be known as the "State Board of Chiropractic Examiners' Fund". Moneys in the fund shall be expended in accordance with law for all necessary and proper expenses in carrying out the provisions of this chapter, upon proper claims approved by the board or a finance committee thereof. All appropriations from the fund shall be made by the Legislature in the annual Budget Act.

SEC. 26. Section 1015 is added to the Business and Professions Code, to read:

1015. Any person who practices or attempts to practice chiropractic, or any person who buys, sells, or fraudulently obtains a license to practice chiropractic, whether recorded or not, or who uses the title "chiropractor" or "D.C." or any word or title to induce, or tending to induce belief that he or she is engaged in the practice of chiropractic, without first complying with the provisions of this chapter; or any licensee under this chapter who uses the word "doctor" or the prefix "Dr." without the word "chiropractor," or "D.C." immediately following his or her name, or the use of the letters "M.D." or the words "doctor of medicine," or the term "surgeon," or the term "physician," or the term "osteopathic physician," or the letters "D.O." or any other letters, prefixes or suffixes, the use of which would indicate that he or she was practicing a profession for which he or she held no license from the State of California, or any person who violates any of the provisions of this chapter, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars ($100) and not more than seven hundred fifty dollars ($750), or by imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

SEC. 27. Section 1016 is added to the Business and Professions Code, to read:

1016. Nothing in this chapter shall be construed to prohibit service in case of emergency, or the domestic administration of chiropractic, nor shall this chapter apply to any chiropractor from any other state or territory who is actually consulting with a licensed chiropractor in this state; provided, that the consulting

chiropractor shall not open an office or appoint a place to receive patients within the limits of the state; nor shall this chapter be construed so as to discriminate against any particular school of chiropractic, or any other treatment; nor to regulate, prohibit or apply to any kind of treatment by prayer; nor to interfere in any way with the practice of religion. Nor shall this chapter apply to persons who are licensed under other acts.

SEC. 28. Section 1017 is added to the Business and Professions Code, to read:

1017. It shall be the duty of the board to aid attorneys and law enforcement agencies in the enforcement of this chapter.

SEC. 29. Section 1018 is added to the Business and Professions Code, to read:

1018. Nothing herein shall be construed as repealing the "Medical Practice Act" of June 2, 1913, or any subsequent amendments thereof, except ~~in so far~~ *insofar* as that act or amendments to that act conflict with the provisions of this chapter as applied to persons licensed under this chapter, to which extent any and all acts or parts of acts in conflict herewith are hereby repealed.

SEC. 30. Section 1018.5 is added to the Business and Professions Code, to read:

1018.5. This chapter, as amended, may be further amended or modified by the Legislature.

SEC. 31. Section 1019 is added to the Business and Professions Code, to read:

1019. If any provision or application of this chapter is for any reason held to be unconstitutional, the decision shall not affect the validity of the remaining provisions of this chapter, or applications thereof.

SEC. 32. Section 1 of the act cited in the title is amended to read:

Section 1. A board is hereby created to be known as the "State Board of Chiropractic Examiners," hereinafter referred to as the board. The board shall consist of seven members. Five members shall be appointed by the Governor, subject to confirmation by the Senate, two of whom shall be public members. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint one public member. Each member shall be a citizen of the United States and shall have been a resident of California for five

years. Each licensee member shall have had at least five years of licensure in this state prior to appointment. Each licensee member shall have pursued a resident course in an approved chiropractic school or college, and shall be a graduate thereof and hold a diploma therefrom.

Not more than two persons shall serve simultaneously as members of the board, whose first diplomas were issued by the same school or college of chiropractic, nor shall more than two members be residents of any one county of the state. And no person who is or within one year of the proposed appointment has been an administrator, policy board member, or paid employee of any chiropractic school or college shall be eligible for appointment to the board. Each member of the board shall receive a per diem in the amount provided in Section 103 of the Business and Professions Code for each day during which he or she is actually engaged in the discharge of his or her duties, together with his or her actual and necessary travel expenses incurred in connection with the performance of the duties of his or her office, and the per diem, travel expenses and other incidental expenses of the board or of its members shall be paid out of the funds of the board hereinafter defined and not from the state's taxes.

The Legislature may, upon review, repeal this section and reconstitute the board.

SEC. 33. Section 1.5 is added to the act cited in the title, to read:

Sec. 1.5. Protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with the other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 34. Section 2 of the act cited in the title is amended to read:

Sec. 2. Each appointment to the board shall be for the term of four years, except that an appointment to fill a vacancy shall be for the unexpired term only. Each member shall serve until his successor has been appointed and qualified or until one year has elapsed since the expiration of his or her term whichever first occurs. No person shall serve more than two consecutive terms on the board nor be eligible for appointment thereafter until the expiration of four years from the expiration of such second

consecutive term, effective January 2, 1974. The Governor may remove a member form the board after receiving sufficient proof of the inability or misconduct of the member.

SEC. 35. Section 3 of the act cited in the title is amended to read:

Sec. 3. The board shall elect a chairman and a vice chairman and a secretary to be chosen from the members of the board. The board shall appoint a person exempt from civil service, by and with the approval of the Director of Consumer Affairs, to be designated as an executive officer. Elections of the officers shall occur annually at the January meeting of the board. A majority of the board shall constitute a quorum.

It shall require the affirmative vote of four members of the board to carry any motion or resolution, to adopt any rule, or to authorize the issuance of any license provided for in this act. The executive officer shall receive a salary to be fixed by the board, with the approval of the Director of Finance, together with his or her actual and necessary traveling expenses incurred in connection with the performance of the duties of his or her office, and shall give bond to the state in a sum and with such sureties as the board may deem proper. He or she shall keep a record of the proceedings of the board, which shall at times during business hours be open to the public for inspection. He or she shall keep a true and accurate account of all funds received and of all expenditures incurred or authorized by the board, and on the first day of December of each year he or she shall file with the Governor, or his or her designee, a report of all receipts and disbursements and of the proceedings of the board for the preceding fiscal year.

SEC. 36. Section 4 of the act cited in the title is amended to read:

Sec. 4. Powers of the board. The board shall have power:

(a) To adopt a seal, which shall be affixed to all licenses issued by the board.

(b) To adopt from time to time rules and regulations as the board may deem proper and necessary for the performance of its work, the effective enforcement and administration of this act, the establishment of educational requirements for license renewal, and the protection of the public. These rules and regulations shall be adopted, amended, repealed and established in accordance with the provisions of Chapter 3.5 (commencing with Section 11340)

of Part 1 of Division 3 of Title 2 of the Government Code as it now reads or as it may be hereafter amended by the Legislature.

(c) To examine applicants and to issue and revoke licenses to practice chiropractic, as provided in this act.

(d) To summon witnesses and to take testimony as to matters pertaining to its duties; and each member shall have power to administer oaths and take affidavits.

(e) To do any and all things necessary or incidental to the exercise of the powers and duties granted or imposed by this act.

(f) To determine minimum requirements for teachers in chiropractic schools and colleges.

(g) To approve chiropractic schools and colleges whose graduates may apply for licenses in this state. The following shall be eligible for approval:

(1) Any chiropractic school or college having status with the accrediting agency and meeting the requirements of Section 5 of this act and the rules and regulations adopted by the board.

(2) Any chiropractic school or college initially commencing instruction prior to the effective date of the amendments to this section approved by the electors at the November, 1976, general election, provided that the school or college meets the requirements of Section 5 of this act and the rules and regulations adopted by the board and provided that the school or college attains status with the accrediting agency within a time period commencing on the effective date of this provision and ending March 1, 1980.

(3) Any chiropractic school or college initially commencing instruction subsequent to the effective date of the amendments to this section approved by the electors at the November, 1976, general election, provided that the school or college meets the requirements of Section 5 of this act and the rules and regulations adopted by the board and provided that the school or college attains status with the accrediting agency within a time period not exceeding three years following the commencement of instruction.

Upon submission of evidence satisfactory to the board that the accrediting agency has unreasonably denied status to a chiropractic school or college approved under paragraph (2) or (3) of this subdivision by not considering the application for status submitted by that school or college in a timely manner, by denying the application for status submitted by that school or college without good cause, or by imposing arbitrary and capricious additional

requirements upon that school or college as conditions for the attainment of status, the board shall grant an extension of the time period for the attainment of status specified in the paragraph under which that school or college is approved, as it applies to that school or college, of at least six months but no more than one year. Prior to the expiration of the extension or of any additional extension the board grants, the board shall determine whether that school or college has been unreasonably denied status by the accrediting agency for any of the reasons specified in the immediately preceding sentence during the extension. Should the board determine that unreasonable denial of status during the extension has occurred, the board shall grant an additional extension of the time period for the attainment of status, as it applies to that school or college, of at least six months but no more than one year.

As used in this section, "accrediting agency" means (1) the Accrediting Commission of the Council on Chiropractic Education, other chiropractic school and college accrediting agencies as may be recognized by the United States Commissioner of Education, or chiropractic school and college accrediting agencies employing equivalent standards for accreditation as determined by the board, (2) in the event that the commission ceases to exist or ceases to be recognized by the commissioner, a chiropractic school and college accrediting agency as may be designated by the board or chiropractic school and college accrediting agencies employing equivalent standards for accreditation as determined by the board, or (3) in the event that the commission ceases to exist or ceases to be recognized by the commissioner, no other accrediting agency is recognized by the commissioner, and no accrediting agency is acceptable to the board, the board.

As used in this section, "status" means correspondent status, status as a recognized candidate for accreditation, accredited status, or other similar status as may be adopted and used by the accrediting agency.

As used in this section, "in a timely manner" means within the time deadlines as may be established by the accrediting agency for submission of applications, consideration of applications submitted, acceptance or rejection of applications submitted, and other similar functions, as those time deadlines are interpreted by the board.

As used in this section, "without good cause" means not in accordance with rules and regulations that may be established by the accrediting agency as conditions for the attainment of status, as those rules and regulations are interpreted by the board.

As used in this section, "arbitrary and capricious additional requirements" means requirements that may be imposed by the accrediting agency as conditions for the attainment of status during the time period specified for the attainment of status by a chiropractic school or college that, in the board's judgement, cannot be satisfied within the time period or do not serve to improve the educational standards or quality of the school or college.

(h) The board may employ any investigators, clerical assistants, commissioners on examination, and other employees as it may deem necessary to carry into effect the provisions of this act, and shall prescribe the duties of those employees. Persons employed pursuant to this subdivision shall be subject to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 5 of the Government Code).

SEC. 37. Section 6 of the act cited in the title is amended to read:

Sec. 6. (a) The office of the board shall be in the City of Sacramento. Suboffices may be established in Los Angeles and San Francisco, and any records as may be necessary may be transferred temporarily to the suboffices. Legal proceedings against the board may be instituted in any one of the three cities.

(b) All meetings of the board shall be conducted in accordance with the provisions of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(c) The board shall meet as a board of examiners at least twice each calendar year, at times and places as may be found necessary for the performance of its duties.

(d) The board shall comply with the requirements of Chapter 22.5 (commencing with Section 7528) of Division 7 of Title 1 of the Government Code and with the provisions of Article 10 (commencing with Section 11364) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(e) Examinations shall be written, oral, and practical, covering chiropractic as taught in chiropractic schools or colleges, designed to ascertain the fitness of the applicant to practice chiropractic.

The examination shall include at least each of the subjects as set forth in Section 5 of this act. Identity of the applicants shall not be disclosed to the examiners until after examinations have been given final grades. A license shall be granted to any applicant who makes a general average of 75 percent, and does not fall below 60 percent in more than two subjects or branches of the examination and receives a 75 percent score in all parts of the practical examination as designated by the board. Any applicant failing to make the required grade shall be given credit for the branches passed, and may, without further cost, take the examination at the next regular examination on the subjects in which he or she failed. For each year of actual practice since graduation, the applicant shall be given a credit of 1 percent on the general average.

(f) An applicant having fulfilled the requirements of Section 5 and paid the fee thereunder, and having obtained a diplomate certificate from the National Board of Chiropractic Examiners, may offer the certificate together with a transcript of grades secured in the national board examination, and the California Board of Chiropractic Examiners may accept those in lieu of all or a portion of the California board examination, as determined by the board.

SEC. 38. Section 6.5 is added to the act cited in the title, to read:

Sec. 6.5. The Attorney General shall act as legal counsel for the board and shall represent the board in any judicial and administrative proceeding. His or her services shall be a charge against the board.

SEC. 39. Section 11 is added to the act cited in the title, to read:

Sec. 11. (a) All proceedings related to the refusal to grant, or to the suspension or revocation of, a license, or for the reissuance or reinstatement of a license that has been suspended or revoked, or for the disciplining of licensees shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

(b) In reaching a decision on a disciplinary action, the board shall consider the disciplinary guidelines entitled "Disciplinary Guidelines and Model Disciplinary Orders" [revised October 21, 2004], which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of

probation, is appropriate if the board in its sole discretion determines that the facts of the particular case warrant the deviation; for example, the presence of mitigating factors, the age of the case, and evidentiary problems.

(c) Any proposed decision or decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee has a second separate conviction for fraud, shall contain an order of revocation that shall not be stayed.

SEC. 40. Section 14 of the act cited in the title is amended to read:

Sec. 14. The executive officer shall at the end of each month report to the Controller the total amount of money received by the board from all sources, and shall deposit with the Treasurer the entire amount of those receipts, and the Treasurer shall place the money so received in a special fund, to be known as the "State Board of Chiropractic Examiners' Fund". Moneys in the fund shall be expended in accordance with law for all necessary and proper expenses in carrying out the provisions of this act, upon proper claims approved by ~~said~~ *the* board or a finance committee thereof. All appropriations from the fund shall be made by the Legislature in the annual Budget Act.

SEC. 41. Section 18.5 is added to the act cited in the title, to read:

Sec. 18.5. This act, as amended, may be further amended or modified by the Legislature.

SEC. 42. Sections 32 to 41, inclusive, of this act shall become effective only when submitted to and if approved by the electors pursuant to subdivision (c) of Section 10 of Article II of the California Constitution. The Secretary of State is hereby directed to place those provisions on the ballot of the ~~next statewide~~ *June 3, 2008, primary* election for approval by the electors in accordance with the applicable provisions of law.

SEC. 43. Sections 2 to 31, inclusive, of this act shall become operative on the date upon which Sections 32 to 41, inclusive, of this act are approved by the electors.

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COMPLETE BILL HISTORY

BILL NUMBER : A.B. No. 1137
AUTHOR : Eng
TOPIC : Chiropractors.

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

BILL HISTORY
2007
June 14 Referred to Com. on B., P. & E.D.
June 7 In Senate. Read first time. To Com. on RLS. for assignment.
June 6 Read third time, passed, and to Senate. (Ayes 42. Noes 29. Page
2036.)
June 5 Read second time. To third reading.
June 4 From committee: Amend, and do pass as amended. (Ayes 17. Noes 0.)
(May 31). Read second time and amended. Ordered returned to
second reading.
May 8 Re-referred to Com. on APPR.
May 8 From committee chair, with author's amendments: Amend, and re-refer
to Com. on APPR. Read second time and amended.
May 1 Re-referred to Com. on APPR.
Apr. 30 Read second time and amended.
Apr. 26 From committee: Amend, do pass as amended, and re-refer to Com. on
APPR. (Ayes 10. Noes 0.) (April 24).
Apr. 17 Re-referred to Com. on B. & P.
Apr. 16 From committee chair, with author's amendments: Amend, and re-refer
to Com. on B. & P. Read second time and amended.

Apr. 10 In committee: Hearing postponed by committee.
Mar. 28 Re-referred to Com. on B. & P.
Mar. 27 From committee chair, with author's amendments: Amend, and re-refer
to Com. on B. & P. Read second time and amended.
Mar. 26 Referred to Com. on B. & P.
Feb. 26 Read first time.
Feb. 25 From printer. May be heard in committee March 27.
Feb. 23 Introduced. To print.

Date of Hearing: April 24, 2007

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Mike Eng, Chair
AB 1137 (Eng) - As Amended: April 16, 2007

SUBJECT : State Board of Chiropractic Examiners.

SUMMARY : Places a legislative proposition on the statewide ballot for approval by the voters to amend the Chiropractic Initiative Act of California (Act), and replicates the Act, as amended and with provisions that do not conflict with the Act, in the Business and Professions Code, thereby allowing future amendments to the Act through legislation signed by the Governor. Specifically, this bill :

1)Provides that the provisions of this bill become effective only if they are approved by a vote of the electorate on a statewide ballot.

2)Requires that protection of the public shall be the highest priority of the State Board of Chiropractic Examiners (BCE) in exercising its licensing, regulatory and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

3)Provides that BCE shall become part of the Department of Consumer Affairs (DCA) just like the 39 other boards and bureaus currently specified as within DCA. (See Business and Professions Code Section 101.)

4)Provides that the Act may be modified, amended or repealed by the Legislature (through legislation signed by the Governor).

5)Provides that BCE shall consist of seven members, five appointed by the Governor, one appointed by the Speaker of the

Assembly, and one appointed by the Senate Rules Committee. The gubernatorial appointees shall consist of three "professional" members (chiropractors) and two "public" members (non-chiropractors). Both legislative appointees shall be public members.

6)Requires that the five BCE members appointed by the Governor shall be subject to Senate confirmation.

7)Provides that the Legislature may "reconstitute" BCE (through legislation signed by the Governor). (Reconstitution results in the removal of BCE members that are then followed by new replacement appointments.)

8)Provides that the DCA Director shall have the authority to approve BCE's appointment of an Executive Director who is exempt from civil service.

9)Requires all BCE meetings to be conducted in accordance with the provisions of the Bagley-Keene Open Meeting Act.

10)Provides that employees of BCE (excluding the Executive Director) shall be subject to the state's civil service requirements.

11)Requires that the Attorney General shall act as legal counsel for BCE.

12)Requires that appropriations for BCE shall be made by the Legislature in the annual Budget Act.

13)Makes findings and declarations by the Legislature, including:

a) The inability of the legislative branch of state government to amend the initiative statute governing the State Board of Chiropractic Examiners has prevented it from exercising the same level of oversight, checks and balances, spending review, and public accountability that apply to other boards that regulate health care professions, including physicians and surgeons, osteopaths, nurses, pharmacists, and acupuncturists.

b) Practitioners of chiropractic have become confused by court decisions, including Tain v. Board of Chiropractic Examiners (2005) 130 Cal.App.4th 609, that held that Section 7 of the Chiropractic Act limits authorized chiropractic healing practices to those taught in chiropractic schools at the time of the enactment of the Act in 1922, and that authorization may not be enlarged by any changes to the curriculum of those schools.

c) The practice of chiropractic merits the same level of

executive and legislative branch oversight as the practice of medicine, nursing, podiatric medicine, optometry, and pharmacy.

EXISTING LAW :

1)Pursuant to the Chiropractic Initiative Act of California, prescribes the terms upon which licenses may be issued to practitioners of chiropractic; creates the State Board of Chiropractic Examiners and declares its powers and duties; and, prescribes penalties for violations of the Act.

2)Provides that BCE shall consist of seven members, all appointed by the Governor, and two of whom shall be public

members (non-chiropractors).

3)Does not provide that the Legislature may amend the Act, with specified exceptions (e.g., Section 12.5 of the Act permits the Legislature to fix the amounts of the fees payable by applicants and licensees and the amount of per diem compensation payable to members of BCE). Consequently, amendments to the Act must be made through a statewide ballot measure adopted by the voters.

FISCAL EFFECT : Unknown

COMMENTS :

Background . Recently there have been numerous press accounts detailing "chaos" at the Board of Chiropractic Examiners and "lawless" actions by its members. On March 28, 2007, the Assembly and Senate Business and Professions Committees conducted a joint oversight and investigative hearing focused on the problems at BCE. According to testimony at the March 28th legislative hearing, as well as documents from the Attorney General's Office, and the approved minutes of BCE's meetings over the past year, it appears that several current BCE members have: (1) repeatedly violated the Bagley-Keene Open Meeting Act; (2) improperly attempted to interfere with the continued employment of civil service employees; (3) unlawfully attempted to dismiss the Attorney General as its legal counsel in favor of a private attorney; (4) illegally fired the BCE's Executive Director without affording her statutorily-guaranteed procedural due process rights (to the extent that BCE had to convene a second meeting at which it re-fired her); (5) violated the

Administrative Procedure Act by inviting chiropractors who are the subject of complaints, investigations, or accusations to bypass staff and discuss their enforcement matters directly with

BCE members; (6) violated the Administrative Procedure Act by engaging in underground rulemaking to endorse the participation of chiropractors in a controversial procedure which some healthcare and legal experts argue is the practice of medicine; and (7) improperly attempted to interfere with an ongoing criminal prosecution of a chiropractor accused of the unauthorized practice of medicine.

Purpose of this bill . According to the author, "Our March 28th joint legislative hearing on BCE revealed a blatant desire by some BCE members to promote the chiropractic profession, almost as if BCE had been transformed into a trade association whose mission is to be a cheerleader for chiropractors rather than BCE's true mission, which is to serve the citizens of California and protect patients and consumers. But the real issue we are dealing with is not just a few wayward members of BCE. The bigger and ongoing problem for BCE can be summed up in three words - lack of accountability.

"The long-term solution that will bring about accountability and oversight is actually quite simple - we need to treat the Chiropractic Board like virtually every other licensing board within the Department of Consumer Affairs. The right way to ratify the role of the chiropractic profession as a mainstream healing art is to acknowledge the fact that respect and accountability go hand-in-hand. You can't have one without the other."

Support . Writing in support, the Center for Public Interest Law states: "The Center for Public Interest Law (CPIL) strongly supports AB 1137 (Eng), which would subject the Board of Chiropractic Examiners (BCE) to the same legislative and executive branch oversight and supervision that apply to other agencies that regulate health care professionals.

"AB 1137 (Eng), and its attempt to bring BCE into the regulatory mainstream of California
government, is long overdue. Its immediate necessity, however, is illustrated by several recent
controversies at the Board which have been well-reported in the media. These controversies have occurred because the Board is subject to no meaningful oversight, training, and/or required

accountability by either the legislative or executive branches. BCE lacks accountability because it is neither vulnerable nor responsive to normal-course checks and balances and oversight provided by either the executive branch or the legislative branch - as are most other occupational licensing agencies.

"In contrast to BCE, the statutes of all other agencies that regulate healthcare professions are codified in the Business and Professions Code and/or amenable to legislative amendment in the normal course. All other agencies that regulate healthcare professions are housed within or are subject to the jurisdiction of the executive branch Department of Consumer Affairs. AB 1137 would require equal treatment of BCE by placing on the ballot an initiative that would codify the Board's statutes in the Business and Professions Code to facilitate legislative branch supervision; place the Board within the Department of Consumer Affairs to facilitate normal-course executive branch oversight; affirm the validity of recent legislative enactments as applied to the Board and to chiropractors; and ensure that the Board is subject to the same 'sunshine statutes' that all other healthcare agencies must follow."

Opposition . The California Chiropractic Association (CCA) has an 'oppose unless amended' position on this bill. CCA writes: "AB 1137 would allow the Legislature to amend any section of the Act, including provisions related to the chiropractic scope of practice. This drastic step is not necessary for effective legislative oversight. Unfettered amendments would unnecessarily open up long-settled scope of practice battles.

"The Act and the BCE were created in 1922 to be independent of the Legislature's authority for a good reason. The Act was passed by the voters to stop the California Medical Board from

prosecuting doctors of chiropractic for practicing medicine without a license. Unlike other initiatives, the Act was set up to specifically prohibit amendment by the Legislature because lawmakers at the time had blocked all attempts to legalize the profession and it was feared that lawmakers would repeal or otherwise undermine the Act, if they had the authority to do so. Voter approval of the Act settled the legal question as to whether doctors of chiropractic could

practice in California. However, the Act did not decrease the threat of de facto elimination through manipulation of the marketplace that continues to this day.

"AB 1137 would place the BCE under the authority of the DCA. The CCA does not believe this necessary because the BCE has already established contracts with DCA to provide administrative support in the areas of personnel, legal and budgeting. The real problem is that the Legislature lacks the same authority over the BCE it has with other boards that are not acting in the public interest - the power to sunset and reconstitute the board.

"While the BCE's structure is unique, problems identified at the recent joint Business and Professions hearing are not unique to this board. In fact, many boards under the DCA have had much more serious problems than the BCE."

Although CCA expresses serious concerns with this bill, CCA also notes its support for several of the bill's provisions:

"CCA supports the following changes:

Reinforce that the protection of the public is the highest priority for the BCE.

Make clear the laws (unrelated to scope of practice) that apply to all other health care providers also apply to doctors of chiropractic.

Authorize the Legislature to sunset and reconstitute the BCE.

Allow the Legislature to appoint the two public members.

Require Senate confirmation of the Governor's appointments.

Require the Attorney General to be legal counsel for the BCE, as long as the relationship is under the same conditions as provided for other boards by the California Constitution.

Require all meetings to be consistent with the Open Meetings Act.

Require the BCE budget to be included in the annual Budget Act.

Require staff be subject to civil service rules."

Technical amendment . Existing law contains cross-referencing errors incorporated into this bill. These errors can be corrected as follows:

On Page 15, line 8: delete Chapter 4.5 and insert Chapter 3.5. Also, delete Section 11400 and insert Section 11340.

On Page 22, line 17: delete Chapter 4.5 and insert Chapter 3.5.

On Page 22, line 18: delete Section 11400 and insert Section 11340.

REGISTERED SUPPORT / OPPOSITION :

Support

Center for Public Interest Law

Opposition

California Chiropractic Association

Analysis Prepared by : Jay Greenwood / B. & P. / (916) 319-3301

Date of Hearing: May 23, 2007

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Mark Leno, Chair

AB 1137 (Eng) - As Amended: May 8, 2007

Policy Committee: Business and Professions Vote: 10 - 0

Urgency: No State Mandated Local Program: No Reimbursable:

SUMMARY

This bill makes various changes to the State Board of Chiropractic Examiners. Because the bill amends the Chiropractic Act, an initiative act in 1922, portions of this bill would need to be submitted to the voters for approval. Specifically, this bill:

1)Adds the State Board of Chiropractic Examiners to the list of boards governed by the Department of Consumer Affairs (DCA).

2)Reduces the number of members appointed by the Governor to five and requires the governor's appointees to be confirmed by the Senate.

3)Establishes the Attorney General as legal counsel for the board.

4)Requires that all appropriations from the State Board of Chiropractic Examiners' Fund be made by the Legislature in the annual Budget Act.

5)Allows the Legislature to amend the Chiropractic Act in the future with a majority vote.

FISCAL EFFECT

1)On-going costs in excess of $265,000 for additional workload for DCA.

2)One time GF costs of approximately $220,000 to include an analysis of the bill and arguments for and against the bill in

the statewide voter pamphlet.

3)One time costs in excess of $100,000 for DCA to update its technology and provide necessary equipment.

COMMENTS

Rationale . According to the author, the purpose of this bill is a long-term solution to bring about accountability and oversight for the Board of Chiropractic Examiners. The author contends that the BCE should be treated like virtually every other licensing board within the Department of Consumer Affairs, subject to the same legislative and executive branch oversight and supervision that apply to other agencies that regulate healthcare professionals.

Analysis Prepared by : Julie Salley-Gray / APPR. / (916) 319-2081

ASSEMBLY THIRD READING
AB 1137 (Eng)
As Amended June 1, 2007
Majority vote

BUSINESS & PROFESSIONS 10-0 APPROPRIATIONS 17-0

Ayes:	Eng, Emmerson, Bass, Carter, Hayashi, Hernandez, Horton, Maze, Price, Torrico	Ayes:	Leno, Walters, Caballero, Davis, DeSaulnier, Emmerson, Huffman, Karnette, Krekorian, La Malfa, Lieu, Ma, Nakanishi, Nava, Sharon Runner, Solorio, Feuer

SUMMARY : Places a legislative proposition on the statewide ballot for approval by the voters to amend the Chiropractic Initiative Act of California (Act), and replicates the Act, as amended and with provisions that do not conflict with the Act, in the Business and Professions Code, thereby allowing future amendments to the Act through legislation signed by the Governor. Specifically, this bill :

1)Provides that the provisions of this bill become effective only if they are approved by a vote of the electorate on the June 3, 2008, statewide ballot.

2)Requires that protection of the public shall be the highest priority of the State Board of Chiropractic Examiners (BCE) in exercising its licensing, regulatory and disciplinary functions. Whenever the protection of the public is

inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

3)Provides that BCE shall become part of the Department of Consumer Affairs (DCA) just like the 39 other boards and bureaus currently specified as within DCA. (See Business and Professions Code Section 101.)

4)Provides that the Act may be modified or amended by the Legislature (through legislation signed by the Governor).

5)Provides that BCE shall consist of seven members, five appointed by the Governor, one appointed by the Speaker of the Assembly, and one appointed by the Senate Rules Committee. The gubernatorial appointees shall consist of three "professional" members (chiropractors) and two "public" members (non-chiropractors). Both legislative appointees shall be public members.

6)Requires that the five BCE members appointed by the Governor shall be subject to Senate confirmation.

7)Provides that the Legislature may "reconstitute" BCE (through legislation signed by the Governor). (Reconstitution results in the removal of BCE members that are then followed by new replacement appointments.)

8)Provides that the DCA Director shall have the authority to approve BCE's appointment of an Executive Director who is exempt from civil service.

9)Requires all BCE meetings to be conducted in accordance with the provisions of the Bagley-Keene Open Meeting Act.

10)Provides that employees of BCE (excluding the Executive Director) shall be subject to the state's civil service requirements.

11)Requires that the Attorney General (AG) shall act as legal counsel for BCE.

12)Requires that appropriations for BCE shall be made by the Legislature in the annual Budget Act.

13)Makes findings and declarations by the Legislature, including:

a) The inability of the legislative branch of state government to amend the initiative statute governing the BCE has prevented it from exercising the same level of oversight, checks and balances, spending review, and public accountability that apply to other boards that regulate

health care professions, including physicians and surgeons, osteopathic physicians, nurses, pharmacists, and acupuncturists;

b) Practitioners of chiropractic have become confused by court decisions, including Tain v. Board of Chiropractic Examiners (2005) 130 Cal.App.4th 609, that held that Section 7 of the Act limits authorized chiropractic healing practices to those taught in chiropractic schools at the time of the enactment of the Act in 1922, and that authorization may not be enlarged by any changes to the curriculum of those schools; and,

c) The practice of chiropractic merits the same level of executive and legislative branch oversight as the practice of medicine, nursing, podiatric medicine, optometry, and pharmacy.

EXISTING LAW :

1)Pursuant to the Act, prescribes the terms upon which licenses may be issued to practitioners of chiropractic; creates the BCE and declares its powers and duties; and, prescribes penalties for violations of the Act.

2)Provides that BCE shall consist of seven members, all appointed by the Governor, and two of whom shall be public members (non-chiropractors).

3)Does not provide that the Legislature may amend the Act, with specified exceptions (e.g., Section 12.5 of the Act permits the Legislature to fix the amounts of the fees payable by applicants and licensees and the amount of per diem compensation payable to members of BCE). Consequently, amendments to the Act must be made through a statewide ballot measure adopted by the voters.

FISCAL EFFECT : According to the Appropriations Committee:

1)On-going costs in excess of $265,000 for additional workload for DCA.
2)One time General Fund costs of approximately $220,000 to

include an analysis of the bill and arguments for and against the bill in the statewide voter pamphlet.

3)One time costs in excess of $100,000 for DCA to update its technology and provide necessary equipment.

COMMENTS : Background: Recently there have been numerous press accounts detailing "chaos" at BCE and "lawless" actions by its members. On March 28, 2007, the Assembly and Senate Business and Professions Committees conducted a joint oversight and investigative hearing focused on the problems at BCE. According to testimony at the March 28th legislative hearing, as well as documents from the AG's Office, and the approved minutes of BCE's meetings over the past year, it appears that several current BCE members have: 1) repeatedly violated the Bagley-Keene Open Meeting Act; 2) improperly attempted to interfere with the continued employment of civil service employees; 3) unlawfully attempted to dismiss the Attorney General as its legal counsel in favor of a private attorney; 4) illegally fired the BCE's Executive Director without affording her statutorily-guaranteed procedural due process rights (to the extent that BCE had to convene a second meeting at which it re-fired her); 5) violated the Administrative Procedure Act by inviting chiropractors who are the subject of complaints, investigations, or accusations to bypass staff and discuss their enforcement matters directly with BCE members; 6) violated the Administrative Procedure Act by engaging in underground rulemaking to endorse the participation of chiropractors in a controversial procedure which some healthcare and legal experts argue is the practice of medicine; and, 7) improperly attempted to interfere with an ongoing criminal prosecution of a chiropractor accused of the unauthorized practice of medicine.

Purpose of this bill: According to the author, "Our March 28th joint legislative hearing on BCE revealed a blatant desire by some BCE members to promote the chiropractic profession, almost as if BCE had been transformed into a trade association whose mission is to be a cheerleader for chiropractors rather than BCE's true mission, which is to serve the citizens of California and protect patients and consumers. But the real issue we are dealing with is not just a few wayward members of BCE. The bigger and ongoing problem for BCE can be summed up in three words - lack of accountability.

"The long-term solution that will bring about accountability and oversight is actually quite simple - we need to treat the Chiropractic Board like virtually every other licensing board within the Department of Consumer Affairs. The right way to ratify the role of the chiropractic profession as a mainstream healing art is to acknowledge the fact that respect and accountability go hand-in-hand. You can't have one without the other."

Support: Writing in support, the Center for Public Interest Law states: "The Center for Public Interest Law (CPIL) strongly supports AB 1137 (Eng), which would subject the Board of Chiropractic Examiners (BCE) to the same legislative and executive branch oversight and supervision that apply to other agencies that regulate health care professionals.

"AB 1137 (Eng), and its attempt to bring BCE into the regulatory mainstream of California
government, is long overdue. Its immediate necessity, however, is illustrated by several recent
controversies at the Board which have been well-reported in the media. These controversies have occurred because the Board is subject to no meaningful oversight, training, and/or required accountability by either the legislative or executive branches. BCE lacks accountability because it is neither vulnerable nor responsive to normal-course checks and balances and oversight provided by either the executive branch or the legislative branch - as are most other occupational licensing agencies."

Opposition: The California Chiropractic Association (CCA) has an "oppose unless amended" position on this bill. CCA writes: "AB 1137 would allow the Legislature to amend any section of the Act, including provisions related to the chiropractic scope of practice. This drastic step is not necessary for effective legislative oversight. Unfettered amendments would

unnecessarily open up long-settled scope of practice battles.

"The Act and the BCE were created in 1922 to be independent of the Legislature's authority for a good reason. The Act was passed by the voters to stop the California Medical Board from prosecuting doctors of chiropractic for practicing medicine without a license. Unlike other initiatives, the Act was set up to specifically prohibit

amendment by the Legislature because lawmakers at the time had blocked all attempts to legalize the profession and it was feared that lawmakers would repeal or otherwise undermine the Act, if they had the authority to do so. Voter approval of the Act settled the legal question as to whether doctors of chiropractic could practice in California. However, the Act did not decrease the threat of de facto elimination through manipulation of the marketplace that continues to this day."

Analysis Prepared by : Jay Greenwood / B. & P. / (916) 319-3301

CURRENT BILL STATUS

MEASURE : A.B. No. 1137
AUTHOR(S) : Eng (Principal coauthor: Senator Ridley-Thomas).
TOPIC : Chiropractors.
HOUSE LOCATION : SEN
+LAST AMENDED DATE : 06/04/2007

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 06/14/2007
LAST HIST. ACTION : Referred to Com. on B., P. & E.D.
COMM. LOCATION : SEN BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT

TITLE : An act to amend Section 101 of, to amend, renumber, and add Sections 1000, 1001, 1002, 1003, 1004, and 1005 of, and to add Sections 1006, 1006.5, 1007, 1008, 1009, 1010, 1011, 1012, 1012.5, 1013, 1014, 1015, 1016, 1017, 1018, 1018.5, and 1019 to, the Business and Professions Code, and to amend an initiative act entitled "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the state board of chiropractic examiners and declaring its powers and duties, prescribing penalties for violation thereof, and repealing all acts and parts of acts inconsistent therewith" approved by electors November 7, 1922, by amending Sections 1, 2, 3, 4, 6, and 14 thereof and adding Sections 1.5, 6.5, 11, and 18.5 thereto, relating to chiropractors.

COMPLETE BILL HISTORY

BILL NUMBER : A.B. No. 1137
AUTHOR : Eng
TOPIC : Chiropractors.

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
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Non-Tax Levy

BILL HISTORY
2007
June 14 Referred to Com. on B., P. & E.D.
June 7 In Senate. Read first time. To Com. on RLS. for assignment.
June 6 Read third time, passed, and to Senate. (Ayes 42. Noes 29. Page
2036.)
June 5 Read second time. To third reading.
June 4 From committee: Amend, and do pass as amended. (Ayes 17. Noes 0.)
(May 31). Read second time and amended. Ordered returned to
second reading.
May 8 Re-referred to Com. on APPR.
May 8 From committee chair, with author's amendments: Amend, and re-refer
to Com. on APPR. Read second time and amended.
May 1 Re-referred to Com. on APPR.
Apr. 30 Read second time and amended.
Apr. 26 From committee: Amend, do pass as amended, and re-refer to Com. on
APPR. (Ayes 10. Noes 0.) (April 24).
Apr. 17 Re-referred to Com. on B. & P.
Apr. 16 From committee chair, with author's amendments: Amend, and re-refer
to Com. on B. & P. Read second time and amended.

Apr. 10 In committee: Hearing postponed by committee.
Mar. 28 Re-referred to Com. on B. & P.
Mar. 27 From committee chair, with author's amendments: Amend, and re-refer
to Com. on B. & P. Read second time and amended.
Mar. 26 Referred to Com. on B. & P.
Feb. 26 Read first time.
Feb. 25 From printer. May be heard in committee March 27.
Feb. 23 Introduced. To print.

Date of Hearing: April 24, 2007

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Mike Eng, Chair
AB 1137 (Eng) - As Amended: April 16, 2007

SUBJECT : State Board of Chiropractic Examiners.

SUMMARY : Places a legislative proposition on the statewide ballot for approval by the voters to amend the Chiropractic Initiative Act of California (Act), and replicates the Act, as amended and with provisions that do not conflict with the Act, in the Business and Professions Code, thereby allowing future amendments to the Act through legislation signed by the Governor. Specifically, this bill :

1)Provides that the provisions of this bill become effective only if they are approved by a vote of the electorate on a statewide ballot.

2)Requires that protection of the public shall be the highest priority of the State Board of Chiropractic Examiners (BCE) in exercising its licensing, regulatory and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

3)Provides that BCE shall become part of the Department of Consumer Affairs (DCA) just like the 39 other boards and bureaus currently specified as within DCA. (See Business and Professions Code Section 101.)

4)Provides that the Act may be modified, amended or repealed by the Legislature (through legislation signed by the Governor).

5)Provides that BCE shall consist of seven members, five appointed by the Governor, one appointed by the Speaker of the

Assembly, and one appointed by the Senate Rules Committee. The gubernatorial appointees shall consist of three "professional" members (chiropractors) and two "public" members (non-chiropractors). Both legislative appointees shall be public members.

6)Requires that the five BCE members appointed by the Governor shall be subject to Senate confirmation.

7)Provides that the Legislature may "reconstitute" BCE (through legislation signed by the Governor). (Reconstitution results in the removal of BCE members that are then followed by new replacement appointments.)

8)Provides that the DCA Director shall have the authority to approve BCE's appointment of an Executive Director who is exempt from civil service.

9)Requires all BCE meetings to be conducted in accordance with the provisions of the Bagley-Keene Open Meeting Act.

10)Provides that employees of BCE (excluding the Executive Director) shall be subject to the state's civil service requirements.

11)Requires that the Attorney General shall act as legal counsel for BCE.

12)Requires that appropriations for BCE shall be made by the Legislature in the annual Budget Act.

13)Makes findings and declarations by the Legislature, including:

a) The inability of the legislative branch of state government to amend the initiative statute governing the State Board of Chiropractic Examiners has prevented it from exercising the same level of oversight, checks and balances, spending review, and public accountability that apply to other boards that regulate health care professions, including physicians and surgeons, osteopaths, nurses, pharmacists, and acupuncturists.

b) Practitioners of chiropractic have become confused by court decisions, including Tain v. Board of Chiropractic Examiners (2005) 130 Cal.App.4th 609, that held that Section 7 of the Chiropractic Act limits authorized chiropractic healing practices to those taught in chiropractic schools at the time of the enactment of the Act in 1922, and that authorization may not be enlarged by any changes to the curriculum of those schools.

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executive and legislative branch oversight as the practice of medicine, nursing, podiatric medicine, optometry, and pharmacy.

EXISTING LAW :

1)Pursuant to the Chiropractic Initiative Act of California, prescribes the terms upon which licenses may be issued to practitioners of chiropractic; creates the State Board of Chiropractic Examiners and declares its powers and duties; and, prescribes penalties for violations of the Act.

2)Provides that BCE shall consist of seven members, all appointed by the Governor, and two of whom shall be public

members (non-chiropractors).

3)Does not provide that the Legislature may amend the Act, with specified exceptions (e.g., Section 12.5 of the Act permits the Legislature to fix the amounts of the fees payable by applicants and licensees and the amount of per diem compensation payable to members of BCE). Consequently, amendments to the Act must be made through a statewide ballot measure adopted by the voters.

FISCAL EFFECT : Unknown

COMMENTS :

Background . Recently there have been numerous press accounts detailing "chaos" at the Board of Chiropractic Examiners and "lawless" actions by its members. On March 28, 2007, the Assembly and Senate Business and Professions Committees conducted a joint oversight and investigative hearing focused on the problems at BCE. According to testimony at the March 28th legislative hearing, as well as documents from the Attorney General's Office, and the approved minutes of BCE's meetings over the past year, it appears that several current BCE members have: (1) repeatedly violated the Bagley-Keene Open Meeting Act; (2) improperly attempted to interfere with the continued employment of civil service employees; (3) unlawfully attempted to dismiss the Attorney General as its legal counsel in favor of a private attorney; (4) illegally fired the BCE's Executive Director without affording her statutorily-guaranteed procedural due process rights (to the extent that BCE had to convene a second meeting at which it re-fired her); (5) violated the

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"In contrast to BCE, the statutes of all other agencies that regulate healthcare professions are codified in the Business and Professions Code and/or amenable to legislative amendment in the normal course. All other agencies that regulate healthcare professions are housed within or are subject to the jurisdiction of the executive branch Department of Consumer Affairs. AB 1137 would require equal treatment of BCE by placing on the ballot an initiative that would codify the Board's statutes in the Business and Professions Code to facilitate legislative branch supervision; place the Board within the Department of Consumer Affairs to facilitate normal-course executive branch oversight; affirm the validity of recent legislative enactments as applied to the Board and to chiropractors; and ensure that the Board is subject to the same 'sunshine statutes' that all other healthcare agencies must follow."

Opposition . The California Chiropractic Association (CCA) has an 'oppose unless amended' position on this bill. CCA writes: "AB 1137 would allow the Legislature to amend any section of the Act, including provisions related to the chiropractic scope of practice. This drastic step is not necessary for effective legislative oversight. Unfettered amendments would unnecessarily open up long-settled scope of practice battles.

"The Act and the BCE were created in 1922 to be independent of the Legislature's authority for a good reason. The Act was passed by the voters to stop the California Medical Board from

prosecuting doctors of chiropractic for practicing medicine without a license. Unlike other initiatives, the Act was set up to specifically prohibit amendment by the Legislature because lawmakers at the time had blocked all attempts to legalize the profession and it was feared that lawmakers would repeal or otherwise undermine the Act, if they had the authority to do so. Voter approval of the Act settled the legal question as to whether doctors of chiropractic could

practice in California. However, the Act did not decrease the threat of de facto elimination through manipulation of the marketplace that continues to this day.

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"While the BCE's structure is unique, problems identified at the recent joint Business and Professions hearing are not unique to this board. In fact, many boards under the DCA have had much more serious problems than the BCE."

Although CCA expresses serious concerns with this bill, CCA also notes its support for several of the bill's provisions:

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Reinforce that the protection of the public is the highest priority for the BCE.

Make clear the laws (unrelated to scope of practice) that apply to all other health care providers also apply to doctors of chiropractic.

Authorize the Legislature to sunset and reconstitute the BCE.

Allow the Legislature to appoint the two public members.

Require Senate confirmation of the Governor's appointments.

Require the Attorney General to be legal counsel for the BCE, as long as the relationship is under the same conditions as provided for other boards by the California Constitution.

Require all meetings to be consistent with the Open Meetings Act.

Require the BCE budget to be included in the annual Budget Act.

Require staff be subject to civil service rules."

Technical amendment . Existing law contains cross-referencing errors incorporated into this bill. These errors can be corrected as follows:

On Page 15, line 8: delete Chapter 4.5 and insert Chapter 3.5. Also, delete Section 11400 and insert Section 11340.

On Page 22, line 17: delete Chapter 4.5 and insert Chapter 3.5.

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REGISTERED SUPPORT / OPPOSITION :

Support

Center for Public Interest Law

Opposition

California Chiropractic Association

Analysis Prepared by : Jay Greenwood / B. & P. / (916) 319-3301

Date of Hearing: May 23, 2007

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Mark Leno, Chair

AB 1137 (Eng) - As Amended: May 8, 2007

Policy Committee: Business and Professions Vote: 10 - 0

Urgency: No State Mandated Local Program: No Reimbursable:

SUMMARY

This bill makes various changes to the State Board of Chiropractic Examiners. Because the bill amends the Chiropractic Act, an initiative act in 1922, portions of this bill would need to be submitted to the voters for approval. Specifically, this bill:

1)Adds the State Board of Chiropractic Examiners to the list of boards governed by the Department of Consumer Affairs (DCA).

2)Reduces the number of members appointed by the Governor to five and requires the governor's appointees to be confirmed by the Senate.

3)Establishes the Attorney General as legal counsel for the board.

4)Requires that all appropriations from the State Board of Chiropractic Examiners' Fund be made by the Legislature in the annual Budget Act.

5)Allows the Legislature to amend the Chiropractic Act in the future with a majority vote.

FISCAL EFFECT

1)On-going costs in excess of $265,000 for additional workload for DCA.

2)One time GF costs of approximately $220,000 to include an analysis of the bill and arguments for and against the bill in

the statewide voter pamphlet.

3)One time costs in excess of $100,000 for DCA to update its technology and provide necessary equipment.

COMMENTS

Rationale . According to the author, the purpose of this bill is a long-term solution to bring about accountability and oversight for the Board of Chiropractic Examiners. The author contends that the BCE should be treated like virtually every other licensing board within the Department of Consumer Affairs, subject to the same legislative and executive branch oversight and supervision that apply to other agencies that regulate healthcare professionals.

Analysis Prepared by : Julie Salley-Gray / APPR. / (916) 319-2081

ASSEMBLY THIRD READING
AB 1137 (Eng)
As Amended June 1, 2007
Majority vote

BUSINESS & PROFESSIONS 10-0 APPROPRIATIONS 17-0

Ayes:	Eng, Emmerson, Bass, Carter, Hayashi, Hernandez, Horton, Maze, Price, Torrico	Ayes:	Leno, Walters, Caballero, Davis, DeSaulnier, Emmerson, Huffman, Karnette, Krekorian, La Malfa, Lieu, Ma, Nakanishi, Nava, Sharon Runner, Solorio, Feuer

SUMMARY : Places a legislative proposition on the statewide ballot for approval by the voters to amend the Chiropractic Initiative Act of California (Act), and replicates the Act, as amended and with provisions that do not conflict with the Act, in the Business and Professions Code, thereby allowing future amendments to the Act through legislation signed by the Governor. Specifically, this bill :

1)Provides that the provisions of this bill become effective only if they are approved by a vote of the electorate on the June 3, 2008, statewide ballot.

2)Requires that protection of the public shall be the highest priority of the State Board of Chiropractic Examiners (BCE) in exercising its licensing, regulatory and disciplinary functions. Whenever the protection of the public is

inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

3)Provides that BCE shall become part of the Department of Consumer Affairs (DCA) just like the 39 other boards and bureaus currently specified as within DCA. (See Business and Professions Code Section 101.)

4)Provides that the Act may be modified or amended by the Legislature (through legislation signed by the Governor).

5)Provides that BCE shall consist of seven members, five appointed by the Governor, one appointed by the Speaker of the Assembly, and one appointed by the Senate Rules Committee. The gubernatorial appointees shall consist of three "professional" members (chiropractors) and two "public" members (non-chiropractors). Both legislative appointees shall be public members.

6)Requires that the five BCE members appointed by the Governor shall be subject to Senate confirmation.

7)Provides that the Legislature may "reconstitute" BCE (through legislation signed by the Governor). (Reconstitution results in the removal of BCE members that are then followed by new replacement appointments.)

8)Provides that the DCA Director shall have the authority to approve BCE's appointment of an Executive Director who is exempt from civil service.

9)Requires all BCE meetings to be conducted in accordance with the provisions of the Bagley-Keene Open Meeting Act.

10)Provides that employees of BCE (excluding the Executive Director) shall be subject to the state's civil service requirements.

11)Requires that the Attorney General (AG) shall act as legal counsel for BCE.

12)Requires that appropriations for BCE shall be made by the Legislature in the annual Budget Act.

13)Makes findings and declarations by the Legislature, including:

a) The inability of the legislative branch of state government to amend the initiative statute governing the BCE has prevented it from exercising the same level of oversight, checks and balances, spending review, and public accountability that apply to other boards that regulate

health care professions, including physicians and surgeons, osteopathic physicians, nurses, pharmacists, and acupuncturists;

b) Practitioners of chiropractic have become confused by court decisions, including Tain v. Board of Chiropractic Examiners (2005) 130 Cal.App.4th 609, that held that Section 7 of the Act limits authorized chiropractic healing practices to those taught in chiropractic schools at the time of the enactment of the Act in 1922, and that authorization may not be enlarged by any changes to the curriculum of those schools; and,

c) The practice of chiropractic merits the same level of executive and legislative branch oversight as the practice of medicine, nursing, podiatric medicine, optometry, and pharmacy.

EXISTING LAW :

1)Pursuant to the Act, prescribes the terms upon which licenses may be issued to practitioners of chiropractic; creates the BCE and declares its powers and duties; and, prescribes penalties for violations of the Act.

2)Provides that BCE shall consist of seven members, all appointed by the Governor, and two of whom shall be public members (non-chiropractors).

3)Does not provide that the Legislature may amend the Act, with specified exceptions (e.g., Section 12.5 of the Act permits the Legislature to fix the amounts of the fees payable by applicants and licensees and the amount of per diem compensation payable to members of BCE). Consequently, amendments to the Act must be made through a statewide ballot measure adopted by the voters.

FISCAL EFFECT : According to the Appropriations Committee:

1)On-going costs in excess of $265,000 for additional workload for DCA.
2)One time General Fund costs of approximately $220,000 to

include an analysis of the bill and arguments for and against the bill in the statewide voter pamphlet.

3)One time costs in excess of $100,000 for DCA to update its technology and provide necessary equipment.

COMMENTS : Background: Recently there have been numerous press accounts detailing "chaos" at BCE and "lawless" actions by its members. On March 28, 2007, the Assembly and Senate Business and Professions Committees conducted a joint oversight and investigative hearing focused on the problems at BCE. According to testimony at the March 28th legislative hearing, as well as documents from the AG's Office, and the approved minutes of BCE's meetings over the past year, it appears that several current BCE members have: 1) repeatedly violated the Bagley-Keene Open Meeting Act; 2) improperly attempted to interfere with the continued employment of civil service employees; 3) unlawfully attempted to dismiss the Attorney General as its legal counsel in favor of a private attorney; 4) illegally fired the BCE's Executive Director without affording her statutorily-guaranteed procedural due process rights (to the extent that BCE had to convene a second meeting at which it re-fired her); 5) violated the Administrative Procedure Act by inviting chiropractors who are the subject of complaints, investigations, or accusations to bypass staff and discuss their enforcement matters directly with BCE members; 6) violated the Administrative Procedure Act by engaging in underground rulemaking to endorse the participation of chiropractors in a controversial procedure which some healthcare and legal experts argue is the practice of medicine; and, 7) improperly attempted to interfere with an ongoing criminal prosecution of a chiropractor accused of the unauthorized practice of medicine.

Purpose of this bill: According to the author, "Our March 28th joint legislative hearing on BCE revealed a blatant desire by some BCE members to promote the chiropractic profession, almost as if BCE had been transformed into a trade association whose mission is to be a cheerleader for chiropractors rather than BCE's true mission, which is to serve the citizens of California and protect patients and consumers. But the real issue we are dealing with is not just a few wayward members of BCE. The bigger and ongoing problem for BCE can be summed up in three words - lack of accountability.

"The long-term solution that will bring about accountability and oversight is actually quite simple - we need to treat the Chiropractic Board like virtually every other licensing board within the Department of Consumer Affairs. The right way to ratify the role of the chiropractic profession as a mainstream healing art is to acknowledge the fact that respect and accountability go hand-in-hand. You can't have one without the other."

Support: Writing in support, the Center for Public Interest Law states: "The Center for Public Interest Law (CPIL) strongly supports AB 1137 (Eng), which would subject the Board of Chiropractic Examiners (BCE) to the same legislative and executive branch oversight and supervision that apply to other agencies that regulate health care professionals.

"AB 1137 (Eng), and its attempt to bring BCE into the regulatory mainstream of California
government, is long overdue. Its immediate necessity, however, is illustrated by several recent
controversies at the Board which have been well-reported in the media. These controversies have occurred because the Board is subject to no meaningful oversight, training, and/or required accountability by either the legislative or executive branches. BCE lacks accountability because it is neither vulnerable nor responsive to normal-course checks and balances and oversight provided by either the executive branch or the legislative branch - as are most other occupational licensing agencies."

Opposition: The California Chiropractic Association (CCA) has an "oppose unless amended" position on this bill. CCA writes: "AB 1137 would allow the Legislature to amend any section of the Act, including provisions related to the chiropractic scope of practice. This drastic step is not necessary for effective legislative oversight. Unfettered amendments would

unnecessarily open up long-settled scope of practice battles.

"The Act and the BCE were created in 1922 to be independent of the Legislature's authority for a good reason. The Act was passed by the voters to stop the California Medical Board from prosecuting doctors of chiropractic for practicing medicine without a license. Unlike other initiatives, the Act was set up to specifically prohibit

amendment by the Legislature because lawmakers at the time had blocked all attempts to legalize the profession and it was feared that lawmakers would repeal or otherwise undermine the Act, if they had the authority to do so. Voter approval of the Act settled the legal question as to whether doctors of chiropractic could practice in California. However, the Act did not decrease the threat of de facto elimination through manipulation of the marketplace that continues to this day."

Analysis Prepared by : Jay Greenwood / B. & P. / (916) 319-3301

CURRENT BILL STATUS

MEASURE : A.B. No. 1137
AUTHOR(S) : Eng (Principal coauthor: Senator Ridley-Thomas).
TOPIC : Chiropractors.
HOUSE LOCATION : SEN
+LAST AMENDED DATE : 06/04/2007

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 06/14/2007
LAST HIST. ACTION : Referred to Com. on B., P. & E.D.
COMM. LOCATION : SEN BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT

TITLE : An act to amend Section 101 of, to amend, renumber, and add Sections 1000, 1001, 1002, 1003, 1004, and 1005 of, and to add Sections 1006, 1006.5, 1007, 1008, 1009, 1010, 1011, 1012, 1012.5, 1013, 1014, 1015, 1016, 1017, 1018, 1018.5, and 1019 to, the Business and Professions Code, and to amend an initiative act entitled "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the state board of chiropractic examiners and declaring its powers and duties, prescribing penalties for violation thereof, and repealing all acts and parts of acts inconsistent therewith" approved by electors November 7, 1922, by amending Sections 1, 2, 3, 4, 6, and 14 thereof and adding Sections 1.5, 6.5, 11, and 18.5 thereto, relating to chiropractors.

BILL NUMBER: SB 77 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY MAY 21, 2007

INTRODUCED BY ~~Committee on Budget and Fiscal Review~~
Senator Ducheny

JANUARY 17, 2007

An act ~~relating to the Budget Act of 2007~~ *making appropriations for the support of the government of the State of California and for several public purposes in accordance with the provisions of Section 12 of Article IV of the Constitution of the State of California, and declaring the urgency thereof, to take effect immediately* .

LEGISLATIVE COUNSEL'S DIGEST

SB 77, as amended, ~~Committee on Budget and Fiscal Review~~ *Ducheny* . Budget Act of 2007.

This bill would make appropriations for support of state government for the 2007-08 fiscal year.

This bill would declare that it is to take effect immediately as an urgency statute.

~~This bill would express the intent of the Legislature to enact the Budget Act of 2007.~~

Vote: ~~majority~~ *2/3* .
Appropriation: ~~no~~ *yes* .
Fiscal committee: ~~no~~ *yes* .
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.00. This act shall be known and may be cited as the "Budget Act of 2007."

GENERAL GOVERNMENT

8500-001-0152--For support of Board of Chiropractic Examiners, payable from the State Board of Chiropractic Examiners Fund... ~~3,039,000~~ *1,519,000*

Schedule:
(1) 10-Board of Chiropractic Examiners..... ~~3,083,000~~ *1,541,000*
(2) Reimbursements..... ~~-44,000~~ *-22,000*

Provisions:
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in ~~Government Code~~ Section 13332.18 ~~.~~ *of the Government Code.*

COMPLETE BILL HISTORY

BILL NUMBER : S.B. No. 77
AUTHOR : Ducheny
TOPIC : Budget Act of 2007.

TYPE OF BILL :
Active
Urgency
Appropriations
2/3 Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

BILL HISTORY
2007
July 9 From Committee on Conference: Be adopted. (Ayes 4. Senators Ducheny and Machado and Assembly Members Laird and Leno. Noes 2. Senator Hollingsworth and Assembly Member Niello.)
May 29 Assembly appoints Conference Committee: Assembly Members Laird, Leno, and Niello.
May 29 Senate appoints Conference Committee: Senators Ducheny, Hollingsworth, and Machado.
May 29 Senate refuses to concur in Assembly amendments. (Ayes 0. Noes 37. Page 1102.)
May 24 In Senate. To unfinished business.
May 24 Read third time.Passed(Ayes45.Noes1. Page1626.)To Senate.
May 21 Unanimous consent granted to consider without reference to committee or file. Read 2nd time. Amended. To third reading.
Apr. 19 In Assembly. Read first time. Held at Desk.
Apr. 19 Read third time. Passed.(Ayes30.Noes6.Page639.)To Assembly.
Apr. 18 To Special Consent Calendar.
Apr. 16 Read second time. To third reading.
Apr. 12 Withdrawn from committee. Ordered placed on second reading.
Jan. 25 To Com. on RLS.
Jan. 18 From print. May be acted upon on or after February 17.
Jan. 17 Introduced. Read first time. To Com. on RLS. for assignment. To print.

BILL NUMBER: SB 54 AMENDED
BILL TEXT

AMENDED IN SENATE MAY 29, 2007

INTRODUCED BY Senator Ducheny

JANUARY 10, 2007

An act making appropriations for the support of the government of the State of California and for several public purposes in accordance with the provisions of Section 12 of Article IV of the Constitution of the State of California, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 54, as amended, Ducheny. 2007-08 Budget.

This bill would make appropriations for support of state government for the 2007-08 fiscal year.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.00. This act shall be known and may be cited as the "Budget Act of 2007."

8500-001-0152--For support of Board of Chiropractic Examiners, payable from the State Board of Chiropractic Examiners Fund... 3,039,000

Schedule:

(1) 10-Board of Chiropractic Examiners..... 3,083,000

(2) Reimbursements..... -44,000

Provisions:

1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Government Code Section 13332.18.

BILL HISTORY

2007

May 29 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on B. & F.R.

Jan. 10 Introduced. Read first time. To Com. on B. & F.R.

The Chiropractic Initiative Act.

Understanding SB 801

Q. Was SB 801 written before the BCE's March 1 meeting?

A. No. SB 801 was introduced in February 23, 2007 to provide student loan repayment assistance. On April 16, 2007, all the language related to student loans was gutted from the bill and the language to amend the Chiropractic Act was added. However, the Legislature's concern about the unique nature of the Act is not new. CCA has defeated several past proposals to allow the Legislature to amend the Act.

Q. What happened at the BCE?

A. The BCE has been under attack because of some procedural mistakes at its March 1 meeting which were corrected at a later meeting. The Legislature used these missteps as an opportunity to claim the need for more oversight of the profession.

Q. What would SB 801 do?

A. If passed by the Legislature and signed by the governor, this bill would place a legislative proposition on the statewide ballot for approval by the voters to amend the Chiropractic Initiative Act of California (Act). Based on the June 4, 2007, version of SB 801, the bill would do the following:

1) Provide that the provisions of this bill become effective only if they are approved by a vote of the electorate on the June 3, 2008 statewide ballot.
2) Require that protection of the public shall be the highest priority of the State Board of Chiropractic Examiners (BCE) in exercising its licensing, regulatory and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.
3) Provide that BCE shall become part of the Department of Consumer Affairs (DCA) just like the 39 other boards and bureaus currently specified as within DCA.
4) Provide that the Act may be modified or amended by the Legislature (through legislation signed by the Governor).
5) Provide that BCE shall consist of nine members, seven appointed by the Governor, one appointed by the Speaker of the Assembly, and one appointed by the Senate Rules Committee. The gubernatorial appointees shall consist of five "professional" members (chiropractors) and two "public" members (non-chiropractors). Both legislative appointees shall be public members.
6) Require that the seven BCE members appointed by the Governor shall be subject to Senate confirmation.
7) Provide that the Legislature may "reconstitute" BCE (through legislation signed by the Governor). (Reconstitution results in the removal of BCE members that are then followed by new replacement appointments.)
8) Provide that the DCA Director shall have the authority to approve BCE's appointment of an Executive Director who is exempt from civil service requirements.
9) Require all BCE meetings to be conducted in accordance with the provisions of the Bagley-Keene Open Meeting Act.
10) Provide that employees of BCE (excluding the Executive Director) shall be subject to the state's civil service requirements.
11) Require that the Attorney General shall act as legal counsel for BCE.
12) Require that appropriations for BCE shall be made by the Legislature in the annual Budget Act.
13) Include intent language to appropriate revenues from the BCE Fund to pay for the printing costs incurred to place a proposition on the June 3, 2008 statewide ballot.

Chiropractic's cohesiveness has been forged in its battle for licensing. Chiropractors fought zealously for their current legal and professional status, suspending doctrinal wars when questions of state licensing were at stake. The opposition was usually organized medicine.

~ Ted J. Kaptchuk, OMD and David M. Eiseberg, MD, Archives of Internal Medicine, Volume 158 Number 20, November 9, 1998

The dramatic 112-year history of chiropractic contains the elements of a good novel with interesting plot twists, agonizing internal conflicts, shifting fortunes and perennial attacks from a wealthy and powerful opposition. Through it all, the public's fondness for chiropractic has pushed the profession forward.

Beginning with Kansas in 1913, the tough battles for licensure were fought and won state by state, culminating in 1974 when Louisiana finally became the 50th state to recognize chiropractic. In California, professional self-regulation commenced in 1922 after a decisive majority of voters turned out in support of licensure, but only after a protracted fight.

One remarkable and cantankerous chiropractic pioneer was central to licensure battles in multiple states, Tullius Ratledge, DC. (besides being the founder of four chiropractic schools). Following successful recognition battles in Kansas and Oklahoma, Ratledge took up the torch for licensure in California.

In 1916 he was arrested and charged with practicing medicine without a license and sentenced to 90 days in the Los Angeles County Jail. "Go to jail for chiropractic" was the slogan soon adopted by the movement as more doctors landed in jail, many with portable tables in tow so they could keep adjusting.

At the height of the struggle a reported 450 chiropractors were jailed within a single year, garnering considerable favorable press and sympathy around the state. When the referendum was put on the ballot in 1922, a decisive majority of California voters sided with the chiropractors and voted in licensure and the autonomous Board of Chiropractic Examiners.

Standing strong since 1922.

CCA and SB 801

Q. Why did CCA propose amendments to SB 801 and try to negotiate with Democratic lawmakers?

A. Some reforms are necessary. From CCA's perspective, the biggest problem is that the Act has not kept up with the laws that have been added since 1922 that apply to all health care providers and all licensing boards. This means that there are laws that may be legally precarious if challenged in a court. For example, California Business and Professions Code section 651 describes what all health care providers can and cannot advertise. Although this law says it includes practitioners licensed pursuant to the Chiropractic Act, the Legislature technically doesn't have the authority to pass a law that applies to doctors of chiropractic. Eventually, the Act needs to be changed to make sure that chiropractic patients have the same rights and protections as the patients of other licensed health care providers. Further, since the Democratic leadership in the Assembly and Senate are strongly supportive of this bill, refusal by the CCA to consider amendments would make CCA appear as if CCA were trying to thwart legitimate reforms and would damage the CCA's credibility at the state Capitol. Ultimately, given the media attention this bill has received, CCA cannot be sure this bill will be vetoed, therefore it is in the profession's best interest to negotiate the best deal possible. Even if the governor agrees to veto the bill, this bill will likely be re-introduced until some kind of reforms are passed. That leaves the best strategy as suggesting amendments to allow some legislative oversight, but protect the BCE's independence and the profession's scope of practice.

Q. Does CCA support granting the Legislature the ability to reconstitute the BCE?

A. CCA supports granting the authority of the Legislature to reconstitute future BCE members, not the current BCE members. There has been no proposal to eliminate the current board members.

Q. Why does CCA support allowing Senate confirmation?

A. Senate confirmation allows CCA to have more input into the appointment process to ensure that a future governor does not appoint BCE members that are employed by the insurance or medical industry.

Q. Why doesn't CCA just wait for the governor to veto SB 801?

A. Although CCA hopes that the governor will veto any bill that potentially harms the profession, there is no doubt that the governor will be under political pressure to sign a bill. Additionally, there will be pressure from Democratic leadership to support SB 801 and this issue may get wrapped up with negotiations between the Democratic leadership and the governor on other issues such as health care reform, redistricting, etc.

Q. Why does CCA oppose allowing the Legislature to make amendments to the Act?

A. Allowing amendments by the Legislature would just give CMA and other organizations that are out to limit consumer access to our services another place to attack the chiropractic profession. The voters specifically forbid the Legislature to amend the Act in 1922 for a good reason. (See historical sidebar).

Q. Why does CCA oppose going under Department of Consumer Affairs (DCA) jurisdiction?

A. According to the BCE's executive officer at the time, the BCE left DCA in the 1970s because the BCE was getting bad service and the DCA was expensive. To make matters worse, the DCA's assigned attorney opposed the BCE's interpretation on advertising restrictions, use of the term physical therapy, use of the term diagnosis and the BCE-proposed requirements for chiropractic colleges. After the BCE moved out of DCA, they established contracts with Department of General Services for administrative services and it was much less expensive than DCA. More importantly, while professional boards under DCA's purview maintain the independence to set standards, conduct examinations, pass candidates, revoke licenses and take positions on legislation, the DCA has substantial oversight over those boards' rulemaking functions. This includes review of notices of proposed rulemaking, as well as the power to accept, reject or alter proposed text and proposed rules. If a particular board action is rejected, the state licensing board can only overrule the DCA by unanimous vote of its board members, and the CCA stands opposed to granting the DCA any authority over chiropractic scope of practice regulations.

Q. If the legislature is given the power to amend the Act directly, what kind of amendments might it try to pass?

A. The chiropractic profession is vastly more established now than it was in 1922 when the Act was first created, so chiropractic patients would likely rally to prevent the Legislature from totally outlawing the practice of chiropractic. It is more likely that special interest groups would push lawmakers to enact laws that interfere with the doctor-patient relationship under the guise of protecting the public, e.g. laws to prohibit the treatment of children, laws to require a medical doctor's referral for all care, etc.

Q. Why should doctors of chiropractic and the BCE be regulated differently than every other health profession in California?

A. In reality, there is no set standard in how professions are regulated in California. Some professions are regulated by a board, some by a bureau and some are certified by private organizations outside of the State of California bureaucracy entirely. All of these various professions have differing degrees of legislative oversight.

continued on page 18

The Chiropractic Initiative Act.

Although there is no real standard for professional licensing, the Legislature determines the scope of practice of other health care providers with doctorate level training. Chiropractors are licensed and regulated separately from other doctorate-level trained health care providers for these reasons:

1) Chiropractic is the only profession that was subject to an illegal boycott by the medical profession. As recently as 1987, a United States District Court found that the

2) Voters in California approved a ballot measure that specifically prohibited legislative amendments because it was the only way to ensure that medical interests would not chip away at the chiropractic scope of practice. The 1987 US District Court finding that the American Medical Association (AMA) had engaged for over 30 years in an illegal conspiracy to contain and eliminate the chiropractic profession.

4) The AMA House of Delegates adopted a resolution that calls for the association to study the qualifications, education and academic requirements of doctors of chiropractic. As scientific evidence accumulates supporting a broad range of health benefits from chiropractic care, increasingly aggressive political attacks have been launched to limit access to chiropractic care.

Given this well-funded and persistent assault, CCA cannot support a measure that could force it to constantly fight for its survival in the Legislature. Moreover, CCA does not believe such a drastic step is necessary for effective legislative oversight.

Q. What has CCA done to fight SB 801?

A. CCA has been the primary force opposing SB 801. Here is a partial list of actions taken by the CCA.

- CCA responded to the first *Sacramento Bee* article with a letter to the editor to clear up the facts and the letter was published; a second letter to the editor was also published.
- CCA established a dedicated and continually updated page on its Web site – "BCE Update!" at *www.calchiro.org* – to keep the profession informed.
- CCA set up over 150 meetings with legislative staff and lawmakers.
- CCA encouraged selected doctors and patients to write letters to the editor in response to one-sided articles and editorials published in a variety of newspapers.
- CCA convened multiple meetings with its attorneys, lobbyists and public affairs experts to formulate initial opposition strategy.
- CCA initiated communication with other chiropractic organizations, including ICAC and the four California chiropractic colleges.
- CCA's public affairs firm provided information on "the rest of the story" and spoke on record to reporters from the *Sacramento Bee, LA Times, Capitol Weekly, workcompcentral.com* in response to stories published.
- CCA's former past president, Dr. Kassie Donoghue, CCA's public affairs counsel and CCA's outside legal counsel personally met with reporters from the *Sacramento Bee* to "clarify" the issues for them.
- CCA complained directly to the *LA Times* that it misled its readers by not including facts that CCA provided. As a result, the *LA Times* decided to not publish the follow-up story on MUA they were planning.
- CCA developed information packets on chiropractic for reporters and lawmakers that included fact sheets on chiropractic generally, MUA, chiropractic cost-effectiveness, the impact of back surgery on overall health, and copies of *Wellness Matters*, a CCA publication that provides lawmakers and other decision-makers positive stories about chiropractic.
- Before a March 28, 2007, joint legislative hearing was held to examine alleged improper actions by the BCE, CCA lobbyists met with members of the joint committee and legislative staff about the issues.
- CCA provided lawmakers evidence of several instances where former BCE staff had taken public positions that were contrary to BCE-approved positions and provided a list of other problems with former BCE staff so that lawmakers could put the BCE's actions into proper context.
- CCA found legal experts with impeccable backgrounds to clarify on record that neither CCA nor the BCE impermissibly interfered with a judicial proceeding in asking the BCE to pass its MUA resolution as alleged at the March 28 joint legislative hearing and issued a press release to lawmakers and reporters.
- CCA provided lawmakers and reporters a fact sheet explaining why the BCE-adopted resolution affirming that MUA was within the chiropractic scope of practice is not an underground regulation and should not be rescinded.
- CCA interviewed individuals who currently and formally worked under state Department of Consumer Affairs to determine impact on the profession of the BCE being placed there as proposed in the two bills.
- On April 12, 2007, and August 6, 2007, CCA met with ICAC and chiropractic colleges to discuss the issues the two bills posed to discuss strategy and reach consensus.
- CCA lobbyists met with every lawmaker on the Senate and Assembly Business and Professions Committee to discuss CCA's opposition to SB 801 and AB 1137.
- CCA developed examples of current DCA boards that have had similar internal problems to prove that the BCE going under DCA would not solve the problem.
- CCA issued opposition letters to the Legislature on each.
- CCA lobbyists and volunteer doctors continue to meet with lawmakers and staff of the Senate and Assembly Business and Professions Committee to discuss CCA's opposition to SB 801 and SB 1137.
- CCA representatives met with the governor's office at least five times in opposition to SB 801.
- CCA testified at the May 7, 2007, Senate Business & Professions Committee hearing examining again alleged improper actions by the BCE.

Standing strong since 1922.

- CCA's 2007 Legislative Conference directed 250 doctors and students to lobby their own lawmakers to oppose SB 801 and AB 1137.
- Assembly Member Mike Eng, author of AB 1137, met with CCA members at CCA's Legislative Conference to explain his intentions.
- CCA lobbyists lobbied each member of the Assembly B&P Committee in opposition to SB 801 and AB 1137.
- AB 1137 was killed in committee.
- Updated talking points on SB 801 for doctors to talk to lawmakers.
- CCA governmental affairs director made presentations on SB 801 at Butte, LA Metro, North State and San Gabriel District meetings.
- CCA sent a letter to health access groups and other organizations such as the California Applicant Attorney Association, asking for help in opposing SB 801.
- CCA asked members to call or write lawmakers in opposition to SB 801, sign up to possibly picket select legislators' district offices, and asked doctors to establish the week of August 20 as patient appreciation week during which they would donate a portion of patient fees to Californians to Protect Chiropractic Patient Rights, and ask doctors and their patients to contribute to Californians to Protect Chiropractic Patients Rights.
- CCA sent a flier on SB 801 to all college presidents and CCA student contacts asking for picketing volunteers, if necessary.
- CCA provided information to doctors for soliciting PAC contributions from patients.
- CCA developed a detailed, how-to letter writing and phone call kit to help members and non-members oppose SB 801.
- CCA hosted conference calls for members and non-members to explain SB 801.
- CCA arranged and paid for patch through phone calls to voters to legislative districts for four lawmakers on the Assembly Appropriations Committee to generate opposition from more patients.

SB 801 Definitions and Breakouts

Q. What does reconstitute mean?

A. Reconstitution results in the removal of BCE members, immediately followed by new replacement appointments. Neither the governor nor the Legislature could increase or change the number or type of appointments made after the board is reconstituted without specific authorization by the voters. The Legislature has the power to reconstitute all other health care provider licensing boards.

Q. If the Legislature was given the power to reconstitute the BCE, how does it happen?

A. The Legislature would need to pass (and the governor would need to sign) a second, separate bill, after the authority to reconstitute the BCE was passed and signed by the voters.

Q. If the Legislature was given the power to reconstitute the board, can it increase the number of BCE members without voter approval?

A. No. The BCE's composition could only be changed if a bill was passed by the Legislature, signed by the governor and approved by the voters.

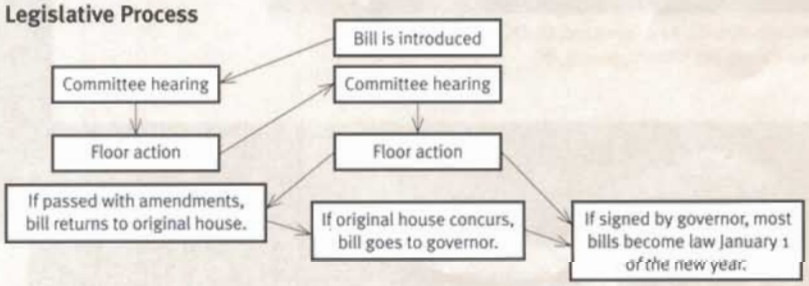
Q. Can SB 801 be fought in the courts since the Chiropractic Act does not allow amendments by the Legislature?

A. SB 801 does not allow the Legislature to amend the Act directly. If SB 801 was passed by the Legislature and signed by the governor, it would be placed on the June 3, 2008, ballot for a vote of the people. If 51 percent of the voters approve this initiative, the Act will be amended legally and there will be no legal challenge available to CCA.

Q. Where is the bill now and what happens next?

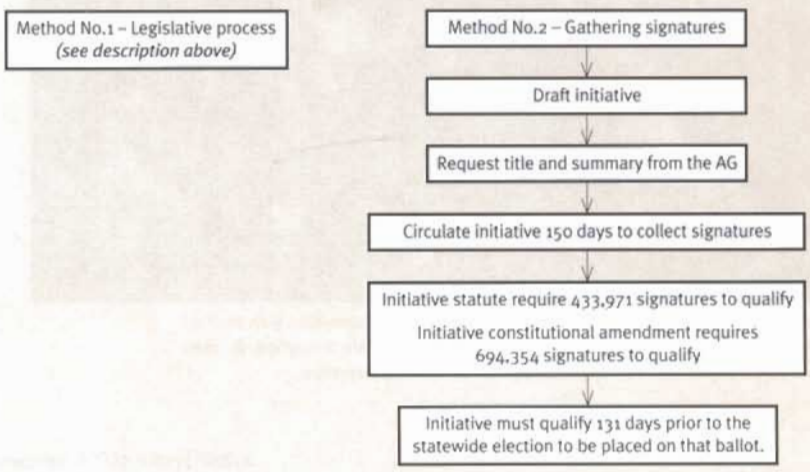
A. For up to date information on SB 801, please visit CCA Web page at *www.calchiro.org.*

Legislative Process



Initiative Process

Two methods to qualify an initiative for statewide ballot



BILL NUMBER: SB 77 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY MAY 21, 2007

INTRODUCED BY ~~Committee on Budget and Fiscal Review~~
Senator Ducheny

JANUARY 17, 2007

An act ~~relating to the Budget Act of 2007~~ *making appropriations for the support of the government of the State of California and for several public purposes in accordance with the provisions of Section 12 of Article IV of the Constitution of the State of California, and declaring the urgency thereof, to take effect immediately* .

LEGISLATIVE COUNSEL'S DIGEST

SB 77, as amended, ~~Committee on Budget and Fiscal Review~~ *Ducheny* . Budget Act of 2007.

This bill would make appropriations for support of state government for the 2007-08 fiscal year.

This bill would declare that it is to take effect immediately as an urgency statute.

~~This bill would express the intent of the Legislature to enact the Budget Act of 2007.~~

Vote: ~~majority~~ *2/3* .
Appropriation: ~~no~~ *yes* .
Fiscal committee: ~~no~~ *yes* .
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.00. This act shall be known and may be cited as the "Budget Act of 2007."

GENERAL GOVERNMENT

8500-001-0152--For support of Board of Chiropractic Examiners, payable from the State Board of Chiropractic Examiners Fund... ~~3,039,000~~ *1,519,000*

Schedule:
(1) 10-Board of Chiropractic Examiners..... ~~3,083,000~~ *1,541,000*
(2) Reimbursements..... ~~-44,000~~ *-22,000*

Provisions:
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in ~~Government Code~~ Section 13332.18 ~~.~~ *of the Government Code.*

COMPLETE BILL HISTORY

BILL NUMBER : S.B. No. 77
AUTHOR : Ducheny
TOPIC : Budget Act of 2007.

TYPE OF BILL :
Active
Urgency
Appropriations
2/3 Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

BILL HISTORY
2007
July 9 From Committee on Conference: Be adopted. (Ayes 4. Senators Ducheny and Machado and Assembly Members Laird and Leno. Noes 2. Senator Hollingsworth and Assembly Member Niello.)
May 29 Assembly appoints Conference Committee: Assembly Members Laird, Leno, and Niello.
May 29 Senate appoints Conference Committee: Senators Ducheny, Hollingsworth, and Machado.
May 29 Senate refuses to concur in Assembly amendments. (Ayes 0. Noes 37. Page 1102.)
May 24 In Senate. To unfinished business.
May 24 Read third time.Passed(Ayes45.Noes1. Page1626.)To Senate.
May 21 Unanimous consent granted to consider without reference to committee or file. Read 2nd time. Amended. To third reading.
Apr. 19 In Assembly. Read first time. Held at Desk.
Apr. 19 Read third time. Passed.(Ayes30.Noes6.Page639.)To Assembly.
Apr. 18 To Special Consent Calendar.
Apr. 16 Read second time. To third reading.
Apr. 12 Withdrawn from committee. Ordered placed on second reading.
Jan. 25 To Com. on RLS.
Jan. 18 From print. May be acted upon on or after February 17.
Jan. 17 Introduced. Read first time. To Com. on RLS. for assignment. To print.

BILL NUMBER: SB 54 AMENDED
BILL TEXT

AMENDED IN SENATE MAY 29, 2007

INTRODUCED BY Senator Ducheny

JANUARY 10, 2007

An act making appropriations for the support of the government of the State of California and for several public purposes in accordance with the provisions of Section 12 of Article IV of the Constitution of the State of California, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 54, as amended, Ducheny. 2007-08 Budget.

This bill would make appropriations for support of state government for the 2007-08 fiscal year.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.00. This act shall be known and may be cited as the "Budget Act of 2007."

8500-001-0152--For support of Board of Chiropractic Examiners, payable from the State Board of Chiropractic Examiners Fund... 3,039,000

Schedule:

(1) 10-Board of Chiropractic Examiners..... 3,083,000

(2) Reimbursements..... -44,000

Provisions:

1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Government Code Section 13332.18.

BILL HISTORY

2007

May 29 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on B. & F.R.

Jan. 10 Introduced. Read first time. To Com. on B. & F.R.

Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931
Telephone (916) 263-5355 FAX (916) 263-5369
CA Relay Service TT/TDD (800) 735-2929
Consumer Complaint Hotline (866) 543-1311
http://www.chiro.ca.gov

BOARD OF CHIROPRACTIC EXAMINERS
NOTICE OF PUBLIC BOARD MEETING
Thursday, March 1, 2007
9:00 a.m. to 5:00 p.m.
State Capitol, Assembly Room 126
Sacramento, CA 95814

Agenda

Call to Order
Roll Call

Barbara Stanfield, D.C., Chair
Richard Tyler, D.C., Secretary
Francesco Columbu, D.C.
Judge James Duvaras (Ret.), Public Member

Approval of Minutes
December 14, Open Session ..... A

Petition for Reinstatement of Revoked Licenses
- Carlos Seals ..... B
- David J. Oranen C
- Thomas J. Wiltse ..... D

Petition for Early Termination of Probation
- Azita Banooni, D.C. ..... E
- Geoffrey A. Hodies, D.C. ..... F
- William W. Schrader, D.C. ..... G

Chairperson's Report

Executive Director's Report

Program Reports
- Administration
  - Budget Update ..... H
  - Update on the Strategic Plan I
- Enforcement
  - List of Complaints ..... J
  - Cost Recovery Data ..... K
  - Pending Disciplinary Actions L
- Licensing
  - License Statistics ..... M
  - California Law and Professional Practices Exam (CLPPE) Statistics ..... N
  - Review of Palmer Chiropractic College-Florida ..... O
  - Web License Lookup Statistics ..... P

Discussion Regarding Manipulation Under Anesthesia ..... Q

Election of Officers

Announcements - Next meeting is for the Committees on June 21, 2007 in Sacramento

Public Comment - Public comment will be limited to 3 minutes. No discussion or action can be taken on items not on the agenda, but they may be placed on a future meeting agenda.

New Business - Future agenda items and issues of interest

CLOSED SESSION

Approval of Minutes
December 14, 2006, Closed Session..... R

Deliberation on Personnel Matters
Pursuant to California Government Code Section 11126(a)(1)

Adjournment

The Mission of the Board of Chiropractic Examiners is to 1) protect Californians from fraudulent or incompetent practice of chiropractic; 2) examine applicants for licensure in order to evaluate entry level competence; and, 3) enforce the Chiropractic Initiative Act and regulations relating to the practice of chiropractic.

Meetings of the Board of Chiropractic Examiners are open to the public except when specifically noticed otherwise in accordance with the Public Meetings Act. Time and order of agenda items are subject to change at the discretion of the Chairperson. The audience will be given appropriate opportunities to comment on any issue before the Board, but the Chair may apportion available time among those who wish to speak. The meeting may be cancelled without notice. For meeting verification or information call Marlene Valencia at (916) 263-5355 ext. 5363 or visit or website at www.chiro.ca.gov.

***NOTICE:** The meeting is accessible to the physically disabled. A person who needs disability-related accommodations or modifications in order to participate in the meeting shall make a request no later than five working days before the meeting to the Board by contacting Marlene Valencia at (916) 263-5355 ext. 5363 or sending a written request to that person at the Board of Chiropractic Examiners, 2525 Natomas Park Drive, Suite 260, Sacramento, CA 95833. Requests for further information should be directed to Ms. Valencia at the same address and telephone number.*

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
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AGENDA ITEM A

DRAFT
BOARD OF CHIROPRACTIC EXAMINERS

PUBLIC SESSION MINUTES
Thursday, December 14, 2006
10:30 a.m. to 5:00 p.m.
State Capitol, Assembly Room 126
Sacramento, CA 95814

BOARD MEMBERS PRESENT

Barbara Stanfield, D.C., Chair
Richard Tyler, D.C., Secretary
Francesco Columbu, D.C.
David Yoshida, D.C.
Judge James Duvaras, Ret.

STAFF PRESENT

Catherine Hayes, Executive Director
David Hinchee, Assistant Executive Director
Jana Tuton, Deputy Attorney General
Paul Bishop, Staff Counsel
Lavella Matthews, Licensing Program Analyst
Marlene Valencia, Business Services Assistant

GUESTS PRESENT

Joe Ferguson, Life Chiropractic College West
Rick Slala
Hugh Lubkin, DC, ICAC
Charles G. Davis, DC, ICAC
Patrick Walborn
Carole Arbuckle
Kendra Holloway, DC, LCCW
Deborah Mattos, SCUHS
Patrick Shannon
Richard Arco, DC
Travis Black, Esq.
George Casey, DC, LCCW
Ed Cremata
Dean Falltrick
Peter Thibodral, ICAC
Kathryn Scott
Leslie Meltz
Kristine Shultz, CCA
Denise Duncan, SCU of Health Services
Mike McCormick, PTBC
Bill Howe, CCA

CALL TO ORDER

Dr. Stanfield, D.C., called the meeting to order at 10:44 a.m.

ROLL CALL

Dr. Tyler, D.C., called the roll. All members were present.

APPROVAL OF MINUTES

September 28, 2006, Open Session

Dr. Stanfield, D.C. called for a motion to approve the September 28, 2006 Board minutes. Judge Duvaras commented that during the September 28, 2006 Board meeting, he read a statement regarding the public comments at the August 10, 2006 meeting and he would like for that statement to be included in the Board minutes. Dr. Stanfield, D.C. stated that Board minutes are not written verbatim and are only summarized. After a brief discussion, it was agreed that Judge Duvaras' statement would be included, in addition to the entire discussion that followed his statement. Dr. Stanfield, D.C. called for a motion to approve the revised September 28, 2006 Board minutes.

DR. YOSHIDA, D.C. MOVED TO ADOPT THE SEPTEMBER 28, 2006 OPEN SESSION MINUTES. DR. TYLER, D.C., SECONDED THE MOTION. VOTE: 5-0. MOTION CARRIED.

November 16, 2006, Open Session

Dr. Stanfield, D.C. called for a motion to approve the November 16, 2006 Board minutes. Judge Duvaras stated that because he was not present at the meeting he could not vote.

DR. YOSHIDA, D.C. MOVED TO ADOPT THE NOVEMBER 16, 2006 OPEN SESSION MINUTES. DR. TYLER, D.C., SECONDED THE MOTION. VOTE: 4-1 abstain. MOTION CARRIED.

CHAIR REPORT

Board Member Orientation Training

Dr. Stanfield, D.C. referred to Exhibit C, New Board Member Orientation that is coming up in Sacramento on January 24, 2007. She commented that the training is very informative and provides a better understanding of the process and duties of a Board member. Dr. Stanfield, D.C. encouraged all Board members to attend this training.

Proposed Board meeting dates for 2007

Dr. Stanfield, D.C. referred to Exhibit D, proposed Board meeting dates for 2007 and asked for comments from the Board members. Judge Duvaras suggested that the January 18, 2007, meeting be in Sacramento because he understood that the Governor was going to make appointments to vacancies. He stated that the new appointments will be located here and the headquarters of the organization is here in Sacramento, which will necessitate looking at records and since the headquarters is here it would be more convenient than having the records transported all the way down to Los Angeles. He recommended that the meeting be alternated with the Los Angeles meeting in April 2007. It was agreed that the meeting location would be changed to Sacramento.

Dr. George Casey, D.C. representing Life West stated that Dr. Clum would formally like to invite the Board to hold a meeting at their campus. Dr. Yoshida, D.C. asked what the feasibility would be to have the Los Angeles meeting at either Southern California University or Cleveland College.

Dr. Columbu, D.C., asked to have the meeting in April changed to March and then space out the meetings later in the year. It was agreed to change it to March 15, 2007.

Dr. Tyler, D.C., commented that it should be a regular item to meet more and more on the campuses of our colleges and the students should be invited to be there at the meeting so that they can ask questions as it relates to their Board. He feels that it is very important to have one or two meetings at least a year. Dr. Stanfield, D.C. stated that the staff will look at the dates and the availability of the colleges.

Debra Mattos commented from the audience that Dr. Phillips, D.C., wanted to volunteer Southern California University of Health Sciences for a meeting at their campus in the future.

COMMITTEE REPORTS

College Approval Committee

Dr. Tyler, D.C. previously agreed to contact certain colleges about their curriculum and provide their accreditation to the Board. He contacted New York, Texas, National, and Palmer. Texas and New York responded that they would send their reports to him. His main concern was the number of hours spent in physical therapy because some catalogs listed 90 hours and other did not; he felt there was a degree of ambiguity that needed to be addressed. In talking to National University and Palmer, Iowa they seemed rather careless about the physical therapy. Dr. Tyler, D.C. asked them to respond as soon as possible to have the information for the next meeting because it seemed to him they were deficient in certain hours. Not hearing anything back from those schools, he recommended that the Board's approval should not be give to those schools who take the Board's approval for granted. He feels that some of the older schools have a tendency to think they've been around for a long time and why are we questioning them. Dr. Tyler, D.C. read into the record the letter that he wrote to the colleges. He stated that no one should take this state for granted just because they have been around for a long time. He recommended that the letter he read into the record be sent to National University and Palmer, Iowa.

Dr. Tyler, D.C. further stated that he contacted the Council on Chiropractic Education (CCE) regarding the accreditation of Palmer Florida. There was some discussion as to whether they thought they were grandfathered in because of the mother campus being in Iowa. He contacted the college and was told that that was not the case and that they are a completely separate campus. He stated that he received a letter from Palmer Florida stating that the college completed the accrediting process and they met all the requirements to be fully accredited by the CCE.

Dr. Yoshida, D.C. reported that a letter was sent to Palmer Florida clarifying the Board's position on the status of their non-application. Dr. Yoshida, D.C. further stated that as of the current date no reply has been received. Judge Duvaras made a request that the Palmer Florida application be placed on the agenda for the January 18, 2007 meeting for discussion and action. He stated that this request was not just for him personally, but also for the attorney representing Palmer. Dr. Yoshida, D.C. stated that he was not sure that the same attorney is representing Palmer College at this point because he was copied on the letter that was sent to the college and he never responded as well. Judge Duvaras questioned if it was Mr. Leventhal, Esq. that received the letter. Dr. Yoshida, D.C. responded yes. Judge Duvaras then stated that Mr. Leventhal contacted him from Hawaii to find out as to whether he could have the matter placed on the agenda and that he was requesting that at this time, as a Board member, that the matter be placed on the agenda. Dr. Yoshida, D.C. responded that he felt that would be acceptable as long as Mr. Leventhal, Esq. responded to the Board's letter first. Judge Duvaras asked what the requirement was that he responds to the Board's letter. Dr. Yoshida, D.C. stated that there is no requirement there just seems to be some confusion as to what has been done and what the timeline on this case has been. Dr. Stanfield, D.C. stated that it was the Committee's recommendation that the college resubmit a new application. Judge Duvaras stated that was the Committee's report and he appreciates that, but he feels that there is no requirement on the part of Palmer to resubmit another application. Dr. Stanfield, D.C. stated that his request will be taken under consideration.

Dr. Tyler, D.C. asked how do they get items onto the agenda and who decides what is going to be placed on the agenda. Dr. Stanfield, D.C. stated that the agenda is decided between the Chair and the Executive

Director. She stated that it was the Committee's recommendation to the Board that Palmer reapply or submit a new application and a letter stating this was sent to the college. Judge Duvaras stated that he feels the application for the college has been stonewalled for over 18 to 20 months in getting a result on the matter, which is actually complicating the whole issue. Mr. Bishop pointed out that if there is any stonewalling of this issue it has come from Palmer College who has steadfastly refused to resubmit an application. Judge Duvaras indicated that he was not going to debate the issue because he has other facts that indicate to the contrary.

Kathryn Scott representing Palmer College stated that at this point they would second the request to be placed on the agenda. She stated that at this point the Board may not have received a written response and there seems to be a difference about the application and she feels it is up to the Board to decide whether the application is standing or not and she was not clear whether that had been decided. Therefore, they second the Judge's request to place it on the agenda. Mr. Bishop informed Ms. Scott that she was not in a position to second it and that it was up to the Board members. She acknowledged that Mr. Bishop was correct and apologized.

Dr. Yoshida, D.C. stated there needs to be some clarification made, again, on the timeline because some individuals still don't have a clear understanding of what has gone on. He suggested that a timeline be created in regards to Palmer's application. Dr. Yoshida, D.C. further stated that it is his understanding that there is no application on file at this time and, therefore, there is nothing to discuss. Judge Duvaras remarked that he will disregard Dr. Yoshida's, D.C. comments because he thinks that there is an application on file. He commented that the college made a request in June and July of 2006 that the applications on file be reinstated. Judge Duvaras stated that there are no other requirements; he indicated that he is not aware of any new applications or at least one that has been approved by the Board.

Dr. Stanfield, D.C. stated that a recommendation will be made to staff to create a timeline regarding the date and events and it will be taken into consideration for the January 2007 agenda.

Continuing Education Committee

Dr. Stanfield, D.C. reported that it is the recommendation of the Committee to accept the Logan Pro-Adjuster Technique and put it under acceptable adjustive techniques for CE credits. Dr. Tyler, D.C. stated that he has not had an opportunity to review the DVD which shows the technique. Dr. Stanfield, D.C. asked for a motion to accept or not accept the technique.

DR. TYLER, D.C. MOVED TO NOT ACCEPT THE PRO-ADJUSTER TECHNIQUE AS AN ADJUSTIVE TECHNIQUE FOR CE CREDITS UNTIL THE BOARD MEMBERS HAVE REVIEWED THE DVD. DR. YOSHIDA, D.C., SECONDED THE MOTION. VOTE: 5-0. MOTION CARRIED.

Dr. Stanfield, D.C. continued to report that based on the Radiological Board, MRI cannot fall under the category of CE credit for x-ray. Dr. Stanfield, D.C. asked if MRI should be given CE credit under general hours. Dr. Yoshida, D.C. recommended that it be accepted as imaging under general hours. After a lengthy discussion it was agreed that the Committee will allow CE credit for general hours if it comes in as MRI however, if its comes through as any other name, it will be brought to the full Board for further recommendation.

Dr. Stanfield, D.C. thanked the following providers for being up to speed with regards to submitting all information; they are Innercalm, Palmer, UBCC, CCA, Life Chiropractic College West, New York, Texas, Dr. Weltch, D.C. and Logan College.

FAQ Committee

Dr. Stanfield, D.C. read a statement prepared by Dr. Columbu, D.C. stating he has reviewed the frequently asked questions (FAQ) and he feels these are legal questions and it is not appropriate for a Board member to answer. Further he stated that these questions should be addressed and answered by the Board's legal counsel. Dr. Stanfield, D.C. responded by saying that the FAQ's deal mainly with scope of practice, care of a

patient, how chiropractors look at different courses of care, advertising questions, and she stated these questions are best answered by a chiropractor. Dr. Columbu, D.C., stated that he would like somebody in the office to review them especially since Ms. Hayes has been at the Board for a long time and that Mr. Bishop knows the law since he has been an attorney for many years. He further stated that he felt it would be inappropriate for him to find out the answers because he doesn't know the exact laws. Dr. Columbu, D.C. stated that we could ask a chiropractic lawyer to maybe answer some of the questions, but the lawyer has to get paid by the Board.

Ms. Hayes stated, for clarification purposes, that the majority of questions received by the Board are dealing with scope of practice rather than legal issues. She indicated that Dr. Craw, D.C. used to answer those types of questions in the past. Ms. Hayes further stated that since she was directed by the Board members not to have Dr. Craw, D.C. answer any type of practice questions the incoming questions are going unanswered. She informed the Board members that individuals requesting scope of practice answers are being advised that their question will have to be given to a Board member for response because staff is not qualified to answer the question.

Dr. Tyler, D.C. referenced a letter that was sent to a licensee based upon a complaint received by the Board, wherein the letter was not signed by Dr. Craw, D.C., but that it stated Dr. Craw, D.C. said so and so, etc. Dr. Tyler, D.C. concluded that Dr. Craw, D.C., was still giving advice on what should be done although she wasn't signing the letter. He said that it is one thing that the Board doesn't want her to sign letters or answer the phone, but if she advising then she is doing the same thing. He agreed that there should be a chiropractor who sits in with the legal counsel and has some input, but he thinks it should be done not with Maggie Craw, because of how he feels about her. He suggested getting somebody else who would sit in with Paul Bishop, Esq. and go over these questions. Charles Davis, D.C. with the International Chiropractic Association California (ICAC) addressed the Board members and stated that this is one of the things that they have thought about in changing section 306.1 and he had a handout for the members to divide some of the workload to establish a Quality Review Committee of the 3 chiropractors and 1 public member to answer chiropractic questions and that way it would not be relying upon just one consultant for an opinion and that way the questions can go to the review committee and report to the Board as well as the executive director.

After further discussion, Dr. Stanfield asked if Dr. Tyler, D.C. and Dr. Columbu, D.C. would agree to be placed on the FAQ Committee. Dr. Tyler, D.C. asked only if he can have until the January meeting to review the questions. Dr. Columbu, D.C. agreed to try it and stated that if there were legal questions they didn't know they would pass them over to Paul. Judge Duvaras commented that he has heard some questions that chiropractors are asking of headquarters or the executive director or the Board members as to how a particular therapy should be conducted. He questioned why should the Board be obligated to give an answer on how that person should be practicing and that instead we should direct them to the university they graduated from for the answer. Dr. Stanfield, D.C. stated that she liked the Judge's suggestion.

Dr. Tyler, D.C. stated that he wanted to speak for himself and not for the Board. He stated that he has had several young patients who have come to him who have had problems with otitis media or ear infections. Dr. Tyler, D.C. stated that he has been treating children with otitis media for years by adjusting the atlas and giving homeopathic remedies and he has found this to be very effective. He stated that there has been a great deal of research on this and there are books and people who teach courses that are approved by the Board on adjusting children with ear problems.

Dr. Tyler, D.C. stated that he received a document that contained some rather flamboyant advertising, but in the document, which was over the executive director's signature, stated "the respondent advertises that the best way to help a child who has ear infection is to boost their immune system through the use of homeopathic remedies. She also proclaims that misalignments of the spine will decrease the bodies heating capacity there is no forensic or scientific evidence to support these statements." Dr. Tyler, D.C. claimed that was wrong. He stated that there is over a 100 years of proof or that one could go back to Hippocrates and there are thousands of years of proof. Dr. Tyler, D.C. continued to read from the document and stated that "respondent advertises that vaccines are not proven to be effective or safe and that they weaken the immune system." He agreed with that statement. He then stated that since the executive director signed the document he wanted to know what research Ms. Hayes has done on the subject that would make her say that

it's not valid. He stated that Ms. Hayes had the right to her opinion.

DAG Tuton stated that this matter was not on the agenda and that under the Open Meeting Act the Board must stick to the agenda. She further pointed out that section 317 expressly prohibits, and makes it subject to disciplinary action, the offer, advertisement or substitution of a spinal manipulation for vaccinations. Dr. Tyler, D.C. stated that he did not say anything about the advertising he was discussing only the fact that the executive director made a statement that is contrary to the chiropractic philosophy. Ms. Hayes stated that he would have to show her what he is reading from because she was not familiar with what he was referencing. After looking at the document she stated that he was reading from an accusation that is prepared by a deputy attorney general. Dr. Tyler, D.C. stated, "But Ms. Hayes your name is on it." She explained to him that she signs all of the accusations and he stated "then you didn't read it." Ms. Hayes responded that she had read the document before she signed it, but that she had not written the document. Ms. Hayes explained to Dr. Tyler, D.C. the disciplinary process and how it starts with the Board and if the Attorney General's Office finds sufficient evidence to support filing an accusation they prepare it for her signature. She explained that the only reason her name appears in the document is because she brings the action against the respondent. DAG Tuton questioned if this was a pending case. Dr. Tyler, D.C. stated he had no idea. Ms. Hayes indicated that the accusation was just filed in October 2006 and that it is still pending. DAG Tuton advised them that at this point they would be disqualified from hearing the case.

Regulation Review Committee

Discussion on revisions to current regulations

Dr. Stanfield, D.C. stated the Committee is currently looking at Articles I and II of the regulations.

Discussion and Review re: California Code of Regulation (CCR) section 306 – Delegation of Certain Duties

Dr. Stanfield, D.C. stated that Dr. Columbu, D.C. requested this item be placed on the agenda to discuss. Dr. Columbu, D.C., referenced the handout showing the current text of Section 306 and proposed text of Section 306 and stated that it was something that could be reviewed.

Dr. Stanfield, D.C., asked if any of the other Board members have had a chance to review it. Judge Duvaras replied no, but questioned whether or it would include the proposal by Dr. Davis, D.C. on section 306.1. He asked if all of them fall in the same pattern. Dr. Stanfield, D.C. stated that she was not sure because she just received the 306 language the day before the meeting. Dr. Columbu, D.C. stated he only wrote the 306 language. Dr. Davis, D.C. stated that the 306 that was just handed out is what the ICAC would like to accomplish. Dr. Stanfield, D.C. then asked for clarification if he was talking about 306 or 306.1. Dr. Davis, D.C., replied both.

Dr. Stanfield, D.C. stated that the request was made from Dr. Columbu, D.C. to look at 306 and she had some questions. She read the current language for section 306 for the executive officer. She indicated that the proposed language that Dr. Columbu, D.C. provided states that "the executive director shall administer the civil service statutes under the rules of the Board subject to the right of appeal to the Board." She asked if Dr. Columbu, D.C. had provisions to rewrite the civil service act and how they are going to put it into play. Dr. Columbu, D.C. stated yes that it is a provision taken verbatim from the Office of Administrative Law (OAL) and he thought it was better than the one we have now and if OAL has it administratively approved then it would be easy to bring it in and have it approved for our Board. Dr. Columbu, D.C. suggested that the Board members and audience review the language and write back to him. Ms. Hayes stated that she needed to get a better understanding of what Dr. Columbu, D.C. was referencing. She indicated that OAL has all the titles for the entire state underneath it as well as its own. She questioned Dr. Columbu, D.C. if he the language he presented is what OAL uses for their executive director? Dr. Columbu, D.C. stated that yes; this is the language that they use. Ms. Hayes clarified for him that the executive director for the OAL does not run a regulatory agency as the Board does and that the executive director for OAL would have different rules to go by than what the executive director for a regulatory agency. She further explained that the executive director for OAL is not going to be filing accusations, statement of issues, etc. Dr. Columbu, D.C. stated that it was just a proposal and that we could write back and he would look into it.

Hugh Lubkin, D.C. with the ICAC who was accompanying Charles Davis, D.C. commented that they agree with Judge Duvaras that sections 306 and 306.1 should be agendized. He stated they have been trying to get it agendized for almost two years to discuss the 306.1 and feels that there were many comments brought up at this meeting that encompass in their presentation for 306.1. He claims that their proposal is an enhancement to the existing regulation with the primary addition of a chiropractic review committee.

Judge Duvaras asked if this matter will be on the agenda for January 18th meeting. Dr. Stanfield, D.C. stated that Dr. Columbu, D.C. has asked the Board members take a look at it and send any questions to him and then he would be the one to ask to have it placed on the agenda.

Discussion and Action re: CCR section 356.1 – CPR/BLS

Dr. Stanfield, D.C. referred to Exhibit E and stated that the Committee is making the recommendation to rescind the requirement for CPR. Judge Duvaras asked a question from a laypersons point of view is it in affect saying that a chiropractor should not be trained to do a CPR procedure? Dr. Stanfield, D.C. clarified that they are trained in school for CPR and they must have a certificate.

DAG Tuton clarified that the regulation has not been repealed; this is simply the authorization for Board staff to commence the process through the Office of Administrative Law and that the requirement still exists. There was a question from the audience as to whether or the Board could put off the enforcement of the CPR until it is repealed? DAG Tuton replied that the Board doesn't have the authority to not enforce the law.

DR. TYLER, D.C. MOVED TO GO FORWARD WITH THE PROCESS TO REMOVE THE REGULATION FOR CPR. DR. YOSHIDA, D.C., SECONDED THE MOTION. VOTE: 5-0. MOTION CARRIED.

The Board members broke for a 10 minute recess to reconvene at 12:14 p.m. Dr. Tyler, D.C. called the roll. All members were present.

ANNOUNCEMENTS

Mr. Hinchee introduced the newest staff member of the Board, Julianne Vernon, who filled a position in the Enforcement Unit. Ms. Vernon came from the Department of Justice and has been with the Board for almost two months.

Discussion and Action re: Manipulation Under Anesthesia (MUA)

Dr. Stanfield, D.C. asked Judge Duvaras if he had any comment since he asked for this item to be placed on the agenda. He stated no he does not that it's on the agenda and that was sufficient.

Patrick Shannon, is outside counsel for the California Chiropractic Association (CCA) and appeared to discuss the legal authority for MUA procedure along with him was Dr. Ed Cremata, D.C., principal of the Fremont Chiropractic Group, practicing chiropractic for 25 years and considered a recognized expert on MUA procedures in the state. He stated that Dr. Cremata, D.C. was there to help in the discussion as an expert of the factual issues. Mr. Shannon provided the Board and the public, a legal memo that analyzes the Chiropractic Initiative Act and applicable cases and regulations interpreting the Act. Mr. Shannon proclaimed that his legal review concludes that manipulation as part of a MUA procedure is authorized under California law. Mr. Shannon then proceeded to read his legal memo to the Board. At the conclusion of his presentation he welcomed any questions from the Board members from either the legal side or on the practice side by Dr. Cremata, D.C.

Judge Duvaras asked Mr. Shannon if there is any requirement to whether or not the patient has consented to this type of procedure of being under anesthesia and receiving manipulation. Mr. Shannon replied yes, there is a requirement for informed consent for all procedures. He further stated that it is not relevant to the scope

of practice issue that it is relevant to the informed consent issues and admitting issues within the hospital or surgery center. He reaffirmed that it is a common practice and it is the law to get informed consent before procedures especially those involving the administration of anesthesia. He stated that the informed consent can be obtained from the M.D.A. for the D.C. Judge Duvaras then asked if it is up to the medical doctor to obtain the consent. Mr. Shannon stated that ultimately it is because the medical doctor is medically responsible for the patient. Judge Duvaras commented that it is not the responsibility of the chiropractor. Mr. Shannon stated that ultimately it would be the responsibility of the medical doctor in practice and referred the discussion to Dr. Cremata, D.C.

Dr. Stanfield, D.C. asked if any Board members had questions. Dr. Tyler, D.C. asked how long the MUA program is and what the certification includes. Dr. Cremata, D.C. answered that it is about 36 hours and provided further details. Dr. Stanfield, D.C. stated that he mentioned in the information that MUA is being taught in the chiropractic colleges, she asked which colleges are currently teaching it as part of their curriculum and not as an adjunct to the curriculum. Dr. Cremata, D.C., replied that every college that he is aware of teaches all of the manipulation, myofacia procedures and traction procedures that he does during MUA. He claims that what he does to a patient when they are sedated by an anesthesiologist is no different than what he does in his office. Dr. Stanfield, D.C. stated that he question was for clarification because she is aware that manipulation is taught at all colleges, but she wanted to know if any post-graduate courses being taught at any of the colleges besides Texas Medical School. Dr. Cremata, D.C., stated that all of the programs that are currently being taught are approved by the Council on Chiropractic Education accredited colleges and sanctioned by the colleges.

At the conclusion of their presentation, Judge Duvaras made a motion to adopt the following resolution; "The Board of Chiropractic Examiners hereby reaffirms its long standing interpretation that manipulation as part of a MUA procedure is authorized under the Chiropractic Initiative Act. The Act banned on the practice of medicine and the use of drug portrays only to the activities by a doctor of chiropractic by his or her own hand and does not preclude a doctor of chiropractic from participating in a procedure where a qualified anesthesia provider is exclusively responsible for the drugs."

DAG Tuton asked Judge Duvaras what he meant by a "qualified anesthesia provider." Judge Duvaras stated that it would be a certified medical anesthesiologist. DAG Tuton responded that in California there are certified nurse anesthetists and so some ambiguity exists in the use of his term and she was wondering what he meant by the term when he picked it. Judge Duvaras answered a doctor of medicine. DAG Tuton then asked if he wanted to amend his resolution to say that and Judge Duvaras replied yes. Judge Duvaras then asked Mr. Shannon if there was any objection. DAG Tuton asked Mr. Shannon if he wrote the resolution. He replied "that is my work." DAG Tuton then asked Mr. Shannon for clarification regarding what he was contemplating in terms of anesthesia when he referred to M.D.A.'s since there is no such designation in the state of California, California only licenses M.D.'s. DAG Tuton asked that when he was talking about anesthesiologists was he including nurse anesthetists? Mr. Shannon replied that the qualified anesthesia provider is not an issue for the Board of Chiropractic Examiners to delve into it is an issue for the Medical Board and Board of Registered Nursing to delve into. So it's intentionally left nonspecific because it's not the purview of the Board. DAG Tuton then asked Mr. Shannon if when he was testifying that MUA is done with an M.D. did he actually mean to say that it could also be done with a nurse anesthetist. Mr. Shannon replied that if the Medical Board and the Board of Registered Nursing so provided that could be arranged, but under certain conditions. DAG Tuton thanked him for the clarification.

There was further discussion pertaining to the use of "qualified anesthesia provider." DAG Tuton stated that she requested the clarification because in Mr. Shannon's testimony he spoke solely of M.D.s, but in the resolution it was much more broadly framed. She further stated that California does not license anesthesiologists they license physicians and surgeons so to use the term "qualified anesthesia provider" any M.D. in the state of California may legally provide anesthesia. Dr. Tyler, D.C. asked if a chiropractor would be liable if it was ambiguous and didn't state that it had to be an M.D. Mr. Shannon replied that every doctor would not be qualified to provide anesthesia. DAG Tuton responded by stating that every doctor is legally authorized to provide anesthesia and that is the law in California. Mr. Shannon stated that in order to be qualified one has to be able to get privileges at certain facilities and unless you had a certification in anesthesia you would be given those privileges and therefore one would have to qualify. DAG Tuton stated

again that it is not clear what is meant by the term "qualifies" which is an ambiguous term. She further stated that she wants the Board members to be clear on the term since it could be a little troubling and suggested that the members might want to put this off since they were just given the professional association's opinion the day before the Board meeting. She indicated that it doesn't really allow the members to thoughtfully spend some time considering it and do whatever research they might want to do. She further stated that when they are going to adopt a formal resolution as Board members, she was sure that they want it to be clear and not ambiguous.

Dr. Tyler, D.C. asked for some additional clarification and then he seconded the motion.

Dr. Yoshida, D.C. suggested that any future discussion on MUA be limited; he continued by stating that this item has been heard repeatedly by the Board. He also asked that if an item is on the agenda, documents should be provided to Board members in a timely manner so that Board meeting time can be used more efficiently. Dr. Yoshida, D.C. further suggested that since there are some new Board members, a chronological timeline be prepared and given to Board members so that they all are up to speed on the history of this item. DAG Tuton stated that the Board members should consider taking time to review and research the information contained in a document. She further stated that as Board members they are certainly entitled to have all the documents referenced in the opinion in front of them for their review. She indicated that in her line of work there are reasons why people have different attorneys and that if the Board members wish to take their legal advice from the CCA they may certainly do so, but by law in California the Legislature has provided and asked that its agencies and boards also obtain legal advice from the Attorney General's Office since they are a neutral party. She stated that to the extent the Board members are there to protect the consumers of California they may want to take some time to review documents given to them at the last minute by professional associations.

Judge Duvaras asked DAG Tuton if she was the attorney for the Attorney General during 2002, 2003 and 2005. DAG Tuton replied that she worked for the Attorney General during that time. Judge Duvaras asked if she was present when the MUA issue came up. DAG Tuton asked him to what he is referring and he replied 2002, 2003 because according to counsel the matter was brought to the Board in 2002, 2003 and 2005 where the Board accepted and recognized MUA as a practice within the scope of the Chiropractic Initiative Act. DAG Tuton stated that she was at numerous meetings, but she is assuming what Mr. Shannon is referring to were meetings that were held about proposed regulations that culminated in the regulation that was submitted to OAL and was rejected. She is aware of those meetings, she offered to go back through the Board's minutes and see if there were other sessions.

J. C. Weydert, Deputy District Attorney for San Joaquin County, commented that Mr. Shannon failed to mention the Lawrence Tain case which has the latest ruling from the appellate on the issue of scope of practice. He further stated that Mr. Shannon is an advocate for Mr. Tain. Mr. Weydert also stated that he feels it is unfair for Mr. Shannon to not allow the Board members sufficient time for review of such an important topic.

Jackie Miller, representing Osteopathic Physicians and Surgeons of California, commented that D.O's and M.D's have equivalent practice rights in the State of California. Ms. Miller further stated that on behalf of Osteopathic Physicians and Surgeons of California, they are opposed to any regulation or statement that will say that doctors of chiropractic are allowed to practice manipulation under anesthesia.

Dr. Charles Davis, D.C. representing ICAC, stated that he has published articles and has done research on MUA. Mr. Davis further stated that he is a Board Member with ICAC and ICAC endorses the CCA's proposal and request the Board pass the recommendation.

Dr. Tyler, D.C. stated that he knows osteopathy and has written for a publication called The Osteopathic Position for several years. Dr. Tyler said that he read the following statement at a prior meeting and wanted to read it again because he believes it sums up how most chiropractors feel about MUA. Dr. Tyler read: Years ago I practiced in a medical facility as a chiropractor, those in the medical field practiced medicine while I practiced chiropractic. Even today there are M.D.'s, D.O.'s, P.T.'s, Licensed Acupuncturists and D.C.'s who have enjoyed and are still engaged in professional relationships so there are some things that I don't

understand concerning MUA. 1) Does the chiropractor practicing MUA administer any anesthetics? 2) Does the chiropractor practicing MUA administer or authorize the administration of any forms of prescription medication? 3) Does the chiropractor practicing MUA perform any form of invasive surgical procedures? and 4) Does the chiropractor practicing MUA do anything more than perform what he or she has been trained and licensed to do? Such as, make specific manual corrections, if the D.C. does only number four, I fail to understand what law is violated or even compromised. If a chiropractor performing MUA is breaking the law, then a D.C. in any professional relationship with a medical professional is also breaking the law. I recently downloaded the decision by a judge that stated that it is unlawful for chiropractor to practice MUA because it wasn't in the 1922 Chiropractic Initiative Act. His opinion was that we individually and as a profession could only do those things specified in the Initiative Act. Since he was sure MUA wasn't practiced in 1922, it was therefore, against the law. With this obvious line of reasoning, we can't prescribe any forms of nutritional supplementation that wasn't in existence in 1922. We can't use any form of adjusting instrumentation that wasn't used in 1922. In other words we are not allowed to progress in any matter since 1922. I personally will not practice MUA but my concerns are that we are continuing to let others decide what we can and can not do based on their personal, professional and legal bias. There are those who are not chiropractic professionals being allowed to testify on our behalf. This has to stop! We, as members of the California Board of Chiropractic Examiners, are sworn to protect the welfare of the citizens of the State, by removing the right of doctors of chiropractic to perform MUA, we are leaving the procedures to D.O.'s, who consider manipulation as little more than an elective in their schools and M.D.'s and P.T.'s, who feel that a weekend seminar is all that's needed to gain expertise. In other words, by allowing anyone other than a D.C. to perform MUA we are dismissing our charge to protect the public. Dr. Tyler ended his statement by saying this is purely his own opinion and not the Board or the staff.

Louise Phillips, a former employee with the Board of Chiropractic Examiners, stated that in 1993, this subject came before the Board and in the discussion; she remembered it being okay to perform MUA as long as there was an anesthesiologist present. Ms. Phillips suggested listening to the audio tape from the meeting.

Dr. Stanfield, D.C. commented that she would like to ask the Board to give this to legal counsel for legal opinion and place it on the January 2007 agenda.

JUDGE DUVARAS MOVED TO ADOPT THE RESOLUTION AS STANDS. DR. TYLER, D.C., SECONDED THE MOTION. VOTE: 3-2. MOTION DENIED.

Dr. Stanfield, D.C. requested the chronological history of the MUA.

PUBLIC COMMENT

Bill Howe, representing California Chiropractic Association, commented that he would like to stand and tip his hat to the Board members, for putting all of the Board meeting exhibits online and making it available before the meeting. Mr. Howe further recognized Ms. Hayes, Mr. Hinchee and the Board staff's involvement in providing this public service.

NEW BUSINESS

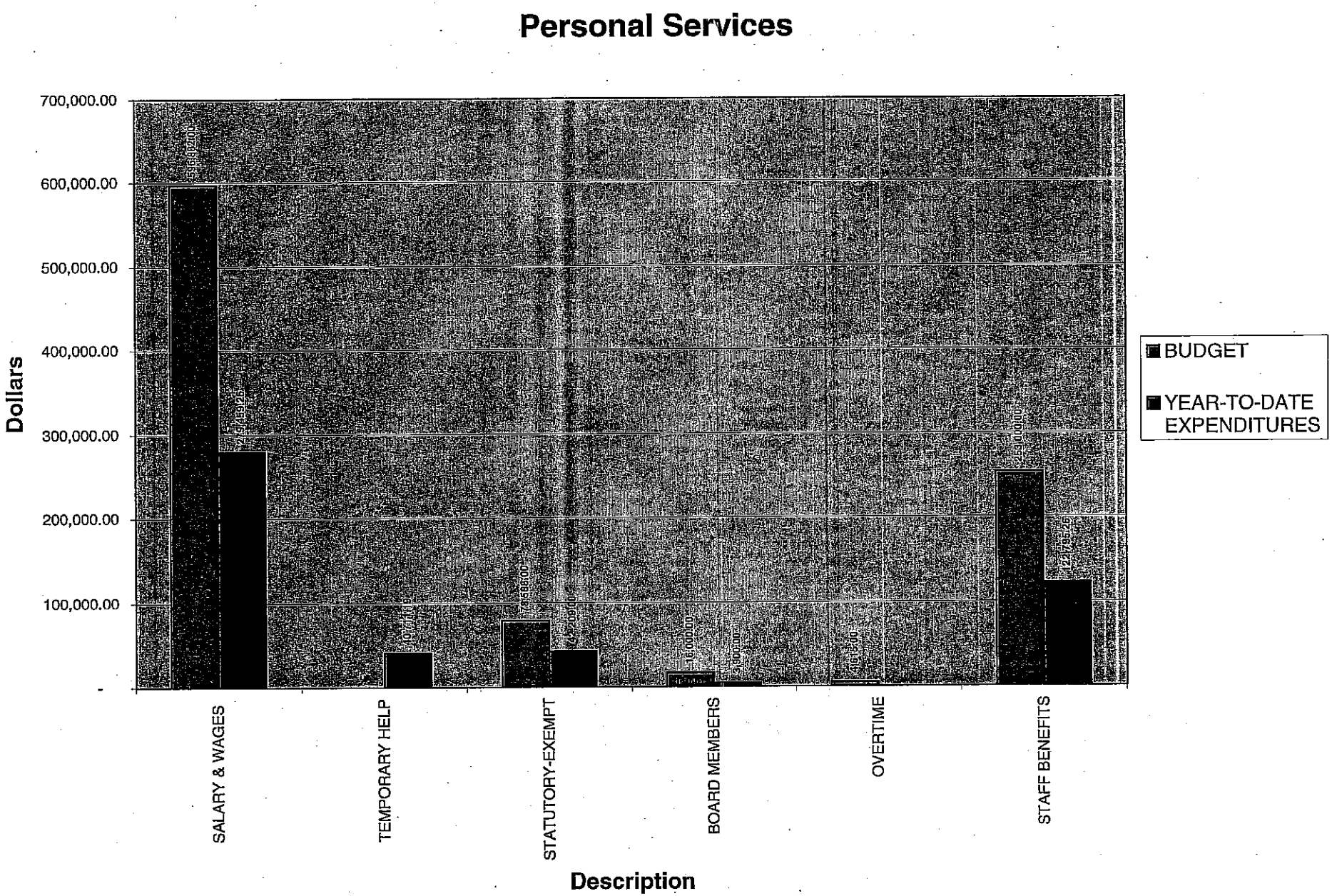
Future Agenda Items

Dr. Stanfield, D.C. stated that the Palmer issue, MUA, and elections of officers would be placed on the agenda for the January 2007 meeting. Dr. Stanfield, D.C. adjourned the public session at 1:20 p.m.

AGENDA ITEM 11

BOARD OF CHIROPRACTIC EXAMINERS
PROJECTED EXPENDITURES FOR FY 2006/07
AS OF DECEMBER 31, 2006

OBJECT CODE	DESCRIPTION	BUDGET	CURRENT MONTH EXPENDITURES	YEAR-TO-DATE EXPENDITURES	ENCUMBRANCES ALLOC ENC/OBLG		ESTIMATED PER AGENCY	TOTAL PROJECTED EXPENDITURES	BALANCE
	PERSONAL SERVICES								
003	SALARY & WAGES	596,882.00	50,271.86	279,459.26					317,422.74
033	TEMPORARY HELP	-	8,955.35	40,711.19					(40,711.19)
063	STATUTORY-EXEMPT	78,588.00	7,239.00	42,209.00					36,379.00
063-01	BOARD MEMBERS	16,000.00	800.00	3,900.00					12,100.00
083	OVERTIME	4,615.00	-	-					4,615.00
101	STAFF BENEFITS	253,000.00	22,476.71	122,795.26					130,204.74
	Total Personal Services	949,085.00	89,742.92	489,074.71					460,010.29
	OPERATING EXPENSES & EQUIPMENT								
201	GENERAL EXPENSE	50,000.00	2,857.14	8,017.49	5,588.55				41,982.51
241	PRINTING	2,000.00	714.62	741.45					1,258.55
251	COMMUNICATIONS	25,000.00	3,321.52	14,338.98					10,661.02
261	POSTAGE	3,000.00	326.98	752.08	1,579.32				2,247.92
291	TRAVEL: IN-STATE	10,000.00	2,127.65	6,852.63	1,380.00				3,147.37
311	TRAVEL: OUT-OF-STATE	13,000.00	-	3,888.52					9,111.48
331	TRAINING	6,000.00	450.00	1,750.00					4,250.00
341	FACILITIES OPERATION	178,000.00	9,429.75	54,296.80					123,703.20
382	CONS/PROF SERV-INTERDEPT.	53,000.00	1,779.00	11,368.10					41,631.90
396.01	AG INVEST. JUS	925,000.00	119,593.75	326,620.75					598,379.25
396.02	AG FINGERPRINTS	10,000.00	-	1,003.00					8,997.00
397	OFC ADMIN HEARING	232,000.00	12,350.68	50,877.10					181,122.90
402	CONS/PROF SERV-EXTERNAL	105,000.00	6,065.50	21,323.49					83,676.51
418.01	COOPERATIVE/PERSNN/SV	10,000.00	-	500.00	9,475.00				9,500.00
418.05	CONS INVESTIGATION CONTRACTS	130,000.00	15,608.82	51,720.65	69,063.42				78,279.35
428	CONSOLIDATED DATA CENTER	26,000.00	81.32	368.43	1,431.57				25,631.57
434	INTERAGENCY AGREEMENT-IT	45,000.00	-						45,000.00
435	NOC-SERV-IT (SECURITY)	40,000.00	-	495.00					39,505.00
435.01	IT CONSULTANT	35,000.00	7,080.00	29,405.66	20,940.00				5,594.34
438	PRO-RATA	92,000.00	-	46,180.50					45,819.50
451	EQUIPMENT	20,000.00	866.57	3,146.61					16,853.39
	Total Operating Exp & Equip	2,010,000.00	182,653.30	633,471.31	109,457.86				1,267,070.83
	TOTAL AUTHORIZED EXPENDITURES	2,959,085.00	272,396.22	1,122,546.02	109,457.86				1,727,081.12
	SCHEDULE OF REIMBURSEMENTS								-
	NET EXPENDITURES	2,959,085.00	272,396.22	1,122,546.02	109,457.86				1,727,081.12


Personal Services
700,000.00
600,000.00
500,000.00
400,000.00
300,000.00
200,000.00
100,000.00
-
Dollars
SALARY & WAGES
TEMPORARY HELP
STATUTORY-EXEMPT
BOARD MEMBERS
OVERTIME
STAFF BENEFITS
Description
BUDGET
YEAR-TO-DATE EXPENDITURES

Operating Expenses
Dollars
100,000.00
200,000.00
300,000.00
400,000.00
500,000.00
600,000.00
700,000.00
800,000.00
900,000.00
1,000,000.00
Description
GENERAL EXPENSE
50,000.00
8,017.49
PRINTING
2,000.00
741.45
COMMUNICATIONS
25,000.00
14,338.98
POSTAGE
3,000.00
752.08
TRAVEL: IN-STATE
10,000.00
6,852.63
TRAVEL: OUT-OF-STATE
13,000.00
3,888.52
TRAINING
6,000.00
750.00
FACILITIES OPERATION
78,000.00
54,296.80
CONS/PROF SERV-INTERDEPT.
53,000.00
1,368.10
AG INVEST. JUS
925,000.00
826,620.75
AG FINGERPRINTS
10,000.00
1,003.00
OFC ADMIN HEARING
232,000.00
50,877.10
CONS/PROF SERV-EXTERNAL
105,000.00
21,323.49
COOPERATIVE/PERSNN/SV
10,000.00
500.00
CONS INVESTIGATION CONTRACTS
130,000.00
5,720.65
CONSOLIDATED DATA CENTER
26,000.00
368.43
INTERAGENCY AGREEMENT-IT
45,000.00
NOC-SERV-IT (SECURITY)
40,000.00
495.00
IT CONSULTANT
85,000.00
29,405.66
PRO-RATA
92,000.00
46,160.50
EQUIPMENT
20,000.00
3,146.6
BUDGET
YEAR-TO-DATE EXPENDITURES

AGENDA ITEM I

State of California
Board of Chiropractic Examiners

STRATEGIC PLAN

Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833
(916) 263-5355
Fax: (916) 263-5369
www.chiro.ca.gov

DRAFT

Proposed
February 1, 2007

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Executive Summary

The Board of Chiropractic Examiners was created on December 21, 1922, as the result of an initiative measure approved by the electors of California on November 7, 1922. The Board is a policy-making body comprised of seven members (five professional and two public) appointed by the Governor. As a quasi-law enforcement agency, the Board's primary responsibility is to protect California consumers from incompetent, and/or fraudulent practice through the enforcement of the Chiropractic Initiative Act and the Board's regulations.

Since the Board's inception, there has been over 27,000 chiropractic licenses issued, which is the largest population of chiropractors in the United States and abroad. The number of current licenses consists of 16,969 active licenses.

Through this Strategic Plan the Board will continue its mission to promote safe practices through the improvement of educational training standards, continuing education, enforcement of the Initiative Act and regulations, and public outreach. Some of the key elements used to achieve these goals are by utilizing staff and Board committees to coordinate and focus on established goals while allowing the flexibility of handling new questions and challenges as they arise.

Mission Statement

To protect Californians from fraudulent or incompetent chiropractic practice, examine applicants for licensure in order to evaluate entry-level competence; and enforce the Chiropractic Initiative Act and regulations relating to the practice of chiropractic.

Vision Statement

Protecting California's consumers through quality licensing services, equitable enforcement and disciplinary actions, innovation, outreach to various constituencies, and will work with other law enforcement and governmental agencies to enforce the Chiropractic Initiative Act and regulations against law violators.

Principles

The Board values the following:

1. Protect consumer safety.
2. Striving to provide a quality service to the public and profession.
3. Commitment and integrity.
4. Trust.
5. Teamwork.
6. Accountability and excellence.
7. Appreciation for the members and staff of the Board.

Administration

Administration Goal #1
Procure a database system that will allow all licensees to renew their license or certificate on-line.

Objective

A. To simplify the cashiering process and reduce the number of renewals that needs to be input manually.
B. To provide a more accurate accounting of payments received by the Board.

Action Plan

1. Department of Consumer Affairs (DCA), oversees the Board's database will provide this service to the Board. DCA is currently testing a prototype system. DCA has projected an actual start date of 2009.[Target Date: July 2009]
2. Provide staff time to deliver input on the development of the program as requested (ongoing).
3. Provide staff to identify requirements for the design of the system (ongoing).

Administration Goal #2
Obtain spending authority to hire an appropriate classed information systems specialist.

Objective

A. Survey and review Board hardware and software needs and upgrade server and workstations as needed.
B. Create new programs and improve existing program data gathering and monitoring processes through enhanced database systems.

Action Plan

1. Submit a Budget Change Proposal requesting a new staff position for the information systems development. [Target Date: FY 2007/2008]

Administration Goal #3
Obtain spending authority to hire staff counsel.

Objective

A. To provide the development of regulations
B. To interpret laws and legal documents, i.e., subpoenas, public record requests, etc.
C. To prepare legal pleadings and other disciplinary documents.
D. To provide legal assistance to the Board members and staff.

Action Plan

1. Upgrade a current civil service position to a staff counsel position. [Target Date: FY 2006/2007]

Administration Goal #4
Obtain spending authority to increase the Board's Licensing Unit by one staff member.

Objective

A. Increase the unit's staff by one personnel year to assist in processing corporations, referral services, and satellite applications, which is currently being done by a retired annuitant.

Action Plan

1. Submit a Budget Change Proposal requesting a new staff position for the Licensing Unit to process corporations, referral services, and satellite applications. [Target Date: FY 2007/2008]

Administration Goal #5
Obtain spending authority to hire in-house investigators to investigate complaints made against chiropractors.

Objective

A. Establish investigator positions as part of Board staff. This is currently being handled by contracted investigators and would be more efficient to hire staff rather than go out for bid.

Action Plan

1. Submit a Budget Change Proposal requesting five investigators to handle the Board's investigation of complaints. [Target Date: FY 2007/2008]

Administration Goal #6
Obtain spending authority to increase the half time chiropractic consultant position to a three- fifths position and hire a full-time office technician.

Objective

A. With the increase in complaints against chiropractors the current half time consultant position is inadequate to handle the volume of cases.

Action Plan

1. Submit a Budget Change Proposal requesting an increase from half time to three-fifths time base for the chiropractic consultant [Target Date: FY 2007/2008]

Administration Goal #7
Provide the necessary equipment to electronically scan all enforcement disciplinary documents and continuing education (CE) material.

Objective

A. To bring the Board into the 21st Century by providing the consumer and any interested party immediate access to a disciplinary action filed against a licensee.
B. To reduce the amount of paper needed to transmit the CE courses to the committee members for review.

Action Plan

1. Identify those disciplinary actions that will be placed on our web site. [Target Date: June 2007]
2. Utilize the electronic scanner to file completed Board approved CE courses. [Target Date: June 2007]

Administrative Goal #8
Enhance the Board's licensing database program used for tracking new applicants and develop a database system that can track probationers.

Objective

A. The current licensing system used by the Board to track all applicants does not have the capability to request reports for statistical data.
B. The number of chiropractors on probation continues to grow; as the numbers increase it becomes more cumbersome to track compliance with the terms and conditions.

Action Plan

1. Prepare an analysis of the current licensing system and how the program can be enhanced to provide data reports on various aspects of applicant documentation. [Target Date: August 2007]
2. Develop a database that provides instant status information on the compliance of a probationer. [Target Date: November 2007]

Administration Goal #9
Reduce the volume of licensing files and documents currently stored at records storage by having active licensing files scanned. Project began in August 2006. First half of files scanned were successful. Second half of active licenses will be scanned beginning February/March of 2007

Objective

A. The Board currently houses all active licensees and will soon run out of file storage. When this happens the files are boxed up and sent to records storage.

Action Plan

1. Develop a Request for Offer to locate a company that can take licensing files and scan. [Target Date Met: May 2006]

2. Identify all licensees that are deceased and those that have been cancelled for 10 years from the date of license issue. [Target Date: February 2007]

Administration Goal #10

Improve Board Program Units utilization of available databases.

Objective

A. Review and update data stored in Consumer Affairs System (CAS).

Action Plan

Request an audit of all records stored on the CAS system to determine what can be used from the data storage. [Target Date: September 2007]

Education and Outreach Programs

Education and Outreach Goal #1
Proactively educate and inform consumers, licensees and other stakeholders about the practice and the laws and regulations governing the provision of chiropractic services.

Objective

A. Produce Frequently Asked Questions (FAQs)for placement on the website.
B. Distribute *Chiropractic Examiner* newsletter every six months.
C. Provide staff resources to assist in educating students, applicants, licensees, law enforcement agencies and the consumer-at-large.

Action Plan

1. Develop and place FAQ's on the Board's website.
2. Establish an informational newsletter for the consumer, applicants, and licensees that identify FAQs, regulatory changes, latest disciplinary actions, Board news, and pressing issues for the profession. [Target Date: August 2007]
3. Visit the Board-approved colleges on a rotating basis to educate them on the application process and potential obstacles. [Target Date: September 2007]
4. Assist law enforcement agencies by providing information to aide them in protecting the consumer. [Ongoing]

Education and Outreach Goal #2
Assure continuing competency of licensees for consumer safety and obtain quality continuing education.

Objective

A. Develop relevancy/quality criteria (onsite and distance).
B. Evaluate effectiveness of continuing education requirements and propose regulations to further re-engineer the program.
C. Determine frequency and consistency of audits.

Action Plan

1. Ensure quality review and evaluation of continuing education courses for relevancy. [Target Date: ongoing]
2. Update continuing education regulations. [Target Date: May 2008]
3. Continue streamlining continuing education auditing process. [Target Date: ongoing]

Education and Outreach Goal #3

To provide Board stakeholders with timely and accurate information regarding consumer protection and the practice of chiropractic.

Objective

A. Develop and implement a program to reduce the yearly number of disciplinary actions before the Board through the education of schools, professional associations and law enforcement.

Action Plan

1. Partner with schools to provide more education in ethics and jurisprudence. [Target Date: December 2007]
2. Outreach to relevant law enforcement agencies to develop better relationships and educate them on the Chiropractic Initiative Act and regulations. [Target Date: December 2007]
3. Outreach to the professional associations to establish open channels of communication on scope of practice, standards of care and enforcement issues. [Target Date: December 2007]
4. Outreach to the licensee by participating in informational booths at professional conferences and/or seminars. [Target Date: ongoing]
5. Implement a continuing education course to educate licensees on the laws and regulations that regulate their practice. [Target Date: December 2007]

Professional Licensing

Licensing Goal #1
Ensure a fair and valid examination that is a reliable measure of competence.

Objective

A. Continue to develop examination questions to ensure the validity of the exam.

Action Plan

1. Work with the contractor and focus group on developing new examination questions. [Target Date: July 2008]

Licensing Goal #2
Streamline the process for issuing of original wall parchments at the time of licensure.

Objective

A. Ability to print the original wall parchment through the on-line data system.

Action Plan

1. Develop a new original wall parchment that can be generated through the Department of Technology Services (DTS) system. [Target Date: March 2008]

Licensing Goal #3
Develop fair and uniform corporation procedures.

Objective

A. Review and revise Corporation Certificate to contain pertinent information.

Action Plan

1. Update the Corporation Certificate to contain pertinent information for the corporation and its shareholders. [Target Date: June 2008]

Licensing Goal #4
Develop fair and uniform satellite office procedures.

Objective

A. Identify and contact forfeited satellite certificate holders.
B. Review and revise satellite certificate to contain pertinent information.

Action Plan

1. Send notices to licensees who have a satellite certificate that is in forfeiture to determine if it will be renewed or cancelled. [Target Date: ongoing]
2. Update Satellite Certificate to contain pertinent information for the location and the licensee. [Target Date: June 2008]

Regulations

Regulation Goal #1
Continue strengthening of regulations pertaining to the practice of chiropractic.

Objective

A. Identify regulations to eliminate archaic and gender-biased language.
B. Coordinate the reorganization, development, and renumbering of existing regulations pertaining to enforcement and discipline, and licensing and continuing education.
C. Review and identify outdated Chiropractic Initiative Act provisions and work towards updating.
D. Evaluate the effectiveness of current college-operated preceptor programs and propose regulations to require preceptor training and Board oversight.
E. Establish a Code of Ethics for the chiropractic profession.

Action Plan

1. Revise regulations to eliminate archaic and gender-biased language. [Target Date: May 2008]
2. Submit recommended changes to the enforcement and discipline, and licensing and continuing education regulations to increase the standards of practice. [Target Date: May 2008]
3. Work with the regulation committee to identify the recommended changes to the Initiative Act and determine what steps need to be taken to request an initiative. [Target Date: ongoing]
4. Revise and develop new regulations to oversee the preceptor program provided by current Board-approved colleges. [Target Date: March 2008]
5. Adopt by regulation the Code of Ethics as established by the Federation of Chiropractic Licensing Boards. [Target Date: May 2008]

Regulation Goal #2
Develop a fair and uniform disciplinary process.

Objective

A. Implement regulations to redefine and change time frame for filing early termination of probation, reduction of penalty and petition for reinstatement of revoked license.

Action Plan

1. Research and develop new regulations to redefine timelines for early termination of probation, reduction of penalty and petition for reinstatement of revoked license. [Target Date: December 2008]

Regulation Goal #3
Establish a uniform fee schedule for all services provided by the Board.

Objective

A. Assess appropriate fees to services rendered by the Board and to cover the actual costs of such services.

Action Plan

1. Develop a regulation that encompasses all the services provided by the Board and the appropriate level of cost is charged for those services. [Target Date: March 2007]
2. Submit regulation to the Office of Administrative Law. [Target Date: June 2007]

Regulation Goal #4
Determine the feasibility of the Board tracking the doing business as (DBA) of chiropractic practices.

Objective

A. Survey the stakeholders and assess the ability of the Board to handle the increased workload to require chiropractic practices file with the Board the DBA of their practice.

Action Plan

1. Assess the possibility for current staff to process and enter applications for DBAs. If feasible develop a regulation that would require chiropractors to file with the Board the DBA of their practice. [Target Date: December 2007]

Enforcement

Enforcement Goal #1
To better protect the consumer through increased enforcement of the Chiropractic Initiative Act and regulations.

Objective

A. Establish a requirement for Continuing Education courses in the subject areas of ethics/jurisprudence.
B. Establish authority for the Board to fine a licensee when a citation is issued.
C. Attend annual professional and consumer protection meetings, conventions, and conferences.

Action Plan

1. Evaluate the need to have all licensees, as a part of continuing education, take and pass the Chiropractic Law and Professional Practice Examination every four to six years as a condition of renewal. [Target Date: December 2007]

2. Modify language in regulations for the ability to issue a fine. [Target Date: April 2008]
3. Develop a calendar of annual professional and consumer protection meetings, conventions, and conferences to ensure that the Board has a representative at these meetings. [Target Date: May 2007]

Enforcement Goal #2
Maintain communication and information sharing with other California regulatory agencies.

Objective

A. Attend regular meetings of state task force groups designed to address health care and insurance fraud issues.
B. Provide presentations to local law enforcement agencies.

Action Plan

1. Schedule Board staff representation at the state task force groups. [Target Date: ongoing]
2. Provide presentations, as needed to local law enforcement agencies to explain the Board's role as a consumer protection agency. [Target Date: ongoing]

Enforcement Goal #3
Strengthen communication and activities designed to serve consumers.

Objective

A. Utilize the Board's newsletter to address enforcement issues of current concern.

Action Plan

1. Identify latest trends in chiropractic practice that might violate the laws and regulations and lead to an enforcement action. [Target Date: ongoing]

Methodology Statement

Development of the Strategic Plan relies upon the full participation of staff members and Board members. At the February 1, 2007, Board meeting, Board members will review this proposed Strategic Plan.

After a 15-day comment period for any Board member to submit suggestions or comments to the above proposed plan has passed, committees to work with Board staff in preparing a revision to the above proposed Strategic Plan may be developed.

The plan will then be submitted for Board approval and adoption during the March 29, 2007 Board Meeting.

Complaint Cases Pending with Investigators AGENDA ITEM J

Board Meeting - February 1, 2007

Case Number	Date Referred	Violation Code	Code Description
CH 2004-4968	9/15/05	CCR 303	Fail to file current address
CH 2004-5284	12/21/04	CCR 317(a)	Unprofessional conduct-gross negligence
CH 2004-5399	2/23/06	CCR 317(a), CCR 317(e)	Unprofessional conduct-gross negligence, conduct endangering public-DC
CH 2004-5600	1/4/06	CCR 308	Fail to display license
CH 2005-5945	9/26/05	CCR 318(b),BP 810	Fail to ensure accurate billings, insurance fraud
CH 2005-5981	7/26/05	BP 654.2	Billing disclosures
CH 2005-6127	11/2/05	CCR 303, CCR 308, CCR 316(a), CCR 318(b), BP 810	Fail to file current address, fail to display license, conduct on premises-DC, fail to ensure accurate billings, insurance fraud
CH 2005-6185	5/25/05	CCR 317(a)	Unprofessional conduct-gross negligence
CH 2005-6246	3/6/06	CCR 312.1, CCR 318(b), BP 2054	Ownership of a chiropractic practice, fail to ensure accurate billings, misrepresentation as a physician
CH 2005-6247	3/17/06	CCR 312.1, CCR 318(b), BP 2054	Ownership of a chiropractic practice, fail to ensure accurate billings, misrepresentation as a physician
CH 2005-6252	3/6/06	CCR 302(a), CCR 317(e)	Exceed scope of practice, conduct endangering public-DC
CH 2005-6253	3/6/06	CCR 302(a), CCR 317(e)	Exceed scope of practice, conduct endangering public-DC
CH 2006-6336	7/27/05	CCR 302(a), BP 1051	Exceed scope of practice, app reg chiropractic corporation
CH 2006-6337	7/27/05	CCR 302(a), BP 1051	Exceed scope of practice, app reg chiropractic corporation
CH 2006-6397	9/15/05	CCR 318(b)	Fail to ensure accurate billings
CH 2006-6410	3/6/06	CCR 311, ACT-15	Advertisements, use of inappropriate title
CH 2006-6455	9/12/06	CCR 317(d), CCR 318(b)	Excessive treatment, fail to ensure accurate billings
CH 2006-6478	12/13/05	CCR 302(a), CCR 311, ACT-15	Exceed scope of practice, advertisements, use of inappropriate title
CH 2006-6501	10/25/05	CCR 316(b), CCR 317(a)	Sexual misconduct, unprofessional conduct-gross negligence
CH 2006-6530	11/13/06	CCR 317(d)	Excessive treatment
CH 2006-6533	11/20/06	CCR 317(d)	Excessive treatment
CH 2006-6534	1/4/06	CCR 303, CCR 311	Fail to file current address, advertisements
CH 2006-6634	3/8/06	CCR 302(a), BP 651	Exceed scope of practice, false/misleading advertising
CH 2006-6635	4/5/06	CCR 318(b), HS 123110	Fail to ensure accurate billings, release patient records
CH 2006-6640	12/20/05	CCR 302(a), BP 1054	Exceed scope of practice, name of chiropractic corporation
CH 2006-6641	12/20/05	CCR 302(a), BP 1054	Exceed scope of practice, name of chiropractic corporation
CH 2006-6642	12/20/05	CCR 302(a), BP 1054	Exceed scope of practice, name of chiropractic corporation
CH 2006-6643	12/15/05	CCR 302(a), CCR 317(d), CCR 317(w), BP 810	Exceed scope of practice, excessive treatment, fail to refer patient, insurance fraud

Updated 1/22/2007

Complaint Cases Pending with Investigators

Board Meeting - February 1, 2007

Case Number	Date Referred	Violation Code	Code Description
CH 2006-6676	12/15/05	CCR 312, CCR 316(a), BP 125	Unlicensed individual-illegal practice, conduct on premises-DC, aiding/abetting unlicensed activity
CH 2006-6677	12/15/05	CCR 312, CCR 316(a), BP 125	Unlicensed individual-illegal practice, conduct on premises-DC, aiding/abetting unlicensed activity
CH 2006-6678	12/15/05	CCR 312, CCR 316(a), BP 125	Unlicensed individual-illegal practice, conduct on premises-DC, aiding/abetting unlicensed activity
CH 2006-6712	8/21/06	CCR 312, CCR 318(a), CCR 318(b), ACT-15	Unlicensed individual-illegal practice, fail to maintain patient records, fail to ensure accurate billings, use of inappropriate title
CH 2006-6751	1/23/06	CCR 317(s)	Employment/use of cappers
CH 2006-6752	12/13/05	BP 726	Sexual misconduct with patient
CH 2006-6840	3/27/06	CCR 318(a), CCR 318(b)	Fail to maintain patient records, fail to ensure accurate billings
CH 2006-6849	2/17/06	CCR 302(a), CCR 317(d)	Exceed scope of practice, excessive treatment
CH 2006-6850	2/17/06	CCR 302(a), CCR 317(d)	Exceed scope of practice, excessive treatment
CH 2006-6852	2/23/06	CCR 317(d)	Excessive treatment
CH 2006-6853	2/23/06	CCR 311	Advertisements
CH 2006-6898	3/27/06	CCR 367.5, CCR 367.7	Application for chiropractic corporation, name of chiropractic corporation
CH 2006-6902	8/28/06	CCR 302(a), CCR 316(a), CCR 367.5	Exceed scope of practice, conduct on premises-DC, application for chiropractic corporation
CH 2006-6912	3/24/06	CCR 317(a), CCR 367.5, CCR 367.7, CCR 367.5(e)	Unprofessional conduct-gross negligence, application for chiropractic corporation, name of chiropractic corporation, issuance of corporation certificate
CH 2006-6921	11/20/06	CCR 317(q)	Participation in fraud/misrepresentation
CH 2006-6922	11/20/06	CCR 317(q)	Participation in fraud/misrepresentation
CH 2006-6923	11/20/06	CCR 317(q)	Participation in fraud/misrepresentation
CH 2006-6963	4/10/06	CCR 312.1	Ownership of a chiropractic practice
CH 2006-6968	4/12/06	BP 125	Aiding/abetting unlicensed activity
CH 2006-6969	8/28/06	CCR 302(a), CCR 316(a), CCR 367.5	Exceed scope of practice, conduct on premises-DC, application for chiropractic corporation
CH 2006-6970	3/24/06	CCR 317(a)	Unprofessional conduct-gross negligence
CH 2006-6985	9/27/06	BP 810	Insurance fraud
CH 2006-7003	9/12/06	CCR 318(b), ACT-15	Fail to ensure accurate billings, use of inappropriate title
CH 2006-7027	5/1/06	CCR 302(a), CCR 318(b), BP 810	Exceed scope of practice, fail to ensure accurate billings, insurance fraud

Updated 1/22/2007

Complaint Cases Pending with Investigators

Board Meeting - February 1, 2007

Case Number	Date Referred	Violation Code	Code Description
CH 2006-7100	6/8/06	CCR 318(b), BP 810	Fail to ensure accurate billings, insurance fraud
CH 2006-7106	6/29/06	CCR 318(b),BP 810	Fail to ensure accurate billings, insurance fraud
CH 2006-7156	6/29/06	CCR 318(b), BP 810	Fail to ensure accurate billings, insurance fraud
CH 2007-7180	11/16/06	CCR 317(d), BP 810	Excessive treatment, insurance fraud
CH 2007-7261	11/20/06	CCR 318(a), CCR 318(b), BP 810	Fail to maintain patient records, fail to ensure accurate billings, insurance fraud
CH 2007-7305	1/11/07	CCR 316(a), ACT-15	Conduct on premises-DC, use of inappropriate title
CH 2007-7323	1/22/07	CCR 316(b), CCR 319	Sexual misconduct, free or discount services
CH 2007-7337	1/11/07	CCR 316(a)	Conduct on premises-DC
CH 2007-7371	11/13/06	CCR 318(b),BP 810, HS 123110	Fail to ensure accurate billings, insurance fraud, release patient records
CH 2007-7372	11/13/06	CCR 318(b),BP 810	Fail to ensure accurate billings, insurance fraud
CH 2007-7373	11/13/06	CCR 318(b), BP 810	Fail to ensure accurate billings, insurance fraud
CH 2007-7374	11/13/06	CCR 318(b), BP 810	Fail to ensure accurate billings, insurance fraud
CH 2007-7375	11/13/06	CCR 318(b), BP 810	Fail to ensure accurate billings, insurance fraud
CH 2007-7376	11/13/06	CCR 318(b), BP 810	Fail to ensure accurate billings, insurance fraud
CH 2007-7377	11/13/06	CCR 318(b), BP 810	Fail to ensure accurate billings, insurance fraud
CH 2007-7382	1/10/07	CCR 316©	Responsible for conduct on premises-DC
CH 2007-7401	12/11/06	CCR 302(a), CCR 303, CCR 308, CCR 317(a), CCR 317(e)	Exceed scope of practice, fail to file current address, fail to display license, unprofessional conduct-gross negligence, conduct endangering public
CH 2007-7402	1/2/07	CCR 317(a), BP 810	Unprofessional conduct, insurance fraud
CH 2007-7435	12/27/06	CCR 302(a)(7), CCR 312.1, CCR 367.5(e), CCR 367.7, BP 810	Only practice a system of chiropractic, ownership if a chiropractic practice, issuance of a corporation certificate, name of chiro corporation, insurance fraud
CH 2007-7446	1/2/07	BP 810	Insurance fraud
CH 2007-7448	1/2/07	BP 810	Insurance fraud
CH 2007-7449	1/11/07	CCR 303	Fail to file current address
CH 2007-7455	1/2/07	BP 810	Insurance fraud
CH 2007-7464	1/10/07	CCR 317(a), CCR 317(e), CCR 317(f), CCR 318(a), CCR 318(b)	Unprofessional conduct, conduct endangering public-DC, administer to oneself drugs/alcohol, fail to maintain patient records, fail to ensure accurate billings
CH 2007-7465	1/17/07	CCR 312, ACT-15	Unlicensed individual-illegal practice, use of inappropriate title
CH 2007-7475	1/2/07	BP 810	Insurance fraud
CH 2007-7525	1/2/07	BP 810	Insurance fraud

Updated 1/22/2007

Complaint Cases Pending with Investigators

Board Meeting - February 1, 2007

Case Number	Date Referred	Violation Code	Code Description
CH 2007-7526	1/2/07	BP 810	Insurance fraud
CH 2007-7558	1/10/07	CCR 318(b), BP 810	Fail to ensure accurate billings, insurance fraud
AP 2007-7384	10/18/06	CCR 312	Unlicensed individual-illegal practice

Updated 1/22/2007

AGENDA ITEM K

Cost Recovery Summary

July 1, 2004 through June 30, 2006
July 1, 2006 to Present

Outcome	Effective Date	Probation Period	Case Number	License Number	Licensee Name	Recovery Amount	Amount Received	Balance Due
Probation	6/18/2001	7	1998-14	12058	James Slusher	$24,230.00	$24,230.00	$0.00
	1/24/2002	5	2000-149	13353	Otha McKinney	$6,107.00	$3,125.00	$2,982.00
	3/13/2002	7	2001-151	20870	Robert Dardashti	$5,204.37	$5,204.37	$0.00
	5/3/2002	5	2001-193	16187	Michael P. Hirsch	$10,649.00	$10,649.00	$0.00
	7/26/2002	5	2001-227	14895	Richard Coplin	$3,300.00	$3,300.00	$0.00
	11/18/2002	5	2001-239	17587	Vincent Punturere	$6,195.75	$3,179.00	$3,016.75
	11/20/2002	4	2002-258	17353	Brian A. Brown	$3,731.00	$3,731.00	$0.00
	3/12/2003	5	2001-194	16424	Arhtur F. Hurtato	$2,580.00	$2,580.00	$0.00
	3/12/2003	5	2003-304	20224	Geoffrey Hodies	$812.00	$812.00	$0.00
	4/7/2003	5	2002-267	24177	Mahmoud Reza Moarefi	$1,597.50	$1,597.50	$0.00
	5/28/2003	5	1998-44	22494	Ellen Carol Yandell	$3,922.00	$1,751.27	$2,170.73
	10/10/2003	4	2002-286	19629	Gregory S. Tardaguila	$2,109.00	$1,466.00	$643.00
	10/10/2003	5	2002-294	15274	John F. Koningh	$4,564.00	$4,564.00	$0.00
	11/7/2003	5	2003-335	13738	Lowell Birch	$2,500.00	$2,500.00	$0.00
	1/9/2004	5	2003-308	11144	Kwang Kim	$2,000.00	$2,000.00	$0.00
	1/9/2004	5	2003-338	21021	George P. Khoury	$2,000.00	$2,000.00	$0.00
	1/9/2004	5	2003-365	17546	Daniel W. LaConte	$1,008.00	$1,008.00	$0.00
	1/9/2004	5	2003-369	18934	Michael P. Riplpey	$1,000.00	$1,000.00	$0.00
	3/3/2004	5	2001-222	22374	Brian S. Icke	$6,500.00	$2,000.00	$4,500.00
	3/3/2004	3	2003-330	20937	Scott Chipponeri	$1,288.00	$1,288.00	$0.00
	3/3/2004	5	2003-341	26907	Robert J. Nathanson	$5,012.00	$5,012.00	$0.00

Outcome	Effective Date	Probation Period	Case Number	License Number	Licensee Name	Recovery Amount	Amount Received	Balance Due
Probation	6/3/2004	3	2003-327	22280	Azita Banooni	$2,804.82	$2,804.82	$0.00
	6/3/2004	0	2003-349	26329	Eitan Aldad	$1,541.75	$1,541.75	$0.00
	9/3/2004	5	2001-229	13387	William W. Schrader	$5,455.50	$5,455.50	$0.00
	9/3/2004	10	2003-328	25823	Joleen Wignall	$24,477.25	$4,303.00	$20,174.25
	9/3/2004	2	2004-435	14315	Gary Beytin	$814.00	$814.00	$0.00
	10/21/2004	5	2004-445	16845	Phillip Runco	$1,581.25	$1,581.25	$0.00
	11/8/2004	5	2004-393	25040	Derik F. Anderson	$4,000.00	$4,000.00	$0.00
	12/9/2004	5	2003-334	20178	Fernando Luque	$5,500.00	$5,500.00	$0.00
	12/9/2004	3	2003-350	24043	Nariman Zarrabi	$1,500.00	$1,500.00	$0.00
	12/9/2004	3	2003-357	25696	Ibrahim Ahmad Ghanem	$2,296.20	$2,296.20	$0.00
	12/9/2004	5	2003-373	25931	Christopher Sim	$2,716.00	$2,716.00	$0.00
	12/9/2004	5	2003-374	26928	Tom Sim	$2,576.00	$2,576.00	$0.00
	12/20/2004	7	2003-378	22196	Antonio Valencia	$878.50	$878.50	$0.00
	12/20/2004	3	2004-451	16354	John A. Egan	$3,000.00	$1,700.00	$1,300.00
	1/24/2005	2	2004-449	25282	Aaron P. Tjogas	$3,300.00	$0.00	$3,300.00
	2/7/2005	3	2004-446	11797	Roy Kenneth Ramerman	$2,137.00	$2,137.00	$0.00
	3/24/2005	3	2003-362	16137	Gary Jay Miller	$2,000.00	$200.00	$1,800.00
	3/24/2005	5	2004-398	16296	Robert D. Campbell	$1,372.50	$1,372.50	$0.00
	3/24/2005	5	2004-432	9674	Kerby Landis	$10,000.00	$10,000.00	$0.00
	5/25/2005	5	2001-195	18154	Elias Y. Rached	$2,310.75	$2,000.00	$310.75
	5/25/2005	5	2003-358	20724	Thomas C. Nutting	$4,800.00	$4,800.00	$0.00
	7/5/2005	3	2003-352	21664	Daniel Davis	$700.00	$700.00	$0.00
	7/5/2005	5	2004-434	17722	Gregory Eugene Johnson	$6,463.00	$6,463.00	$0.00
	8/22/2005	7	2002-260	21000	David Hofstetter	$13,410.00	$13,410.00	$0.00
	8/22/2005	6	2004-412	22255	Gertrude Johnson	$586.75	$586.75	$0.00

Outcome	Effective Date	Probation Period	Case Number	License Number	Licensee Name	Recovery Amount	Amount Received	Balance Due
Probation	8/22/2005	5	2004-450	23851	David J. Jacob	$1,042.50	$500.00	$542.50
	9/26/2005	7	2000-151	20870	Robert Dardashti	$2,684.37	$2,684.37	$0.00
	9/26/2005	0	2004-386	16097	Michael Aveni	$9,208.75	$9,208.75	$0.00
	9/26/2005	5	2004-395	18700	Patrick Wymore	$5,640.00	$1,890.00	$3,750.00
	9/26/2005	2	2004-422	21835	Kimberly Carter Williams	$1,128.33	$1,128.33	$0.00
	9/26/2005	5	2005-466	22557	Kenneth Ilwhan Paik	$1,216.25	$1,216.25	$0.00
	10/20/2005	3	2005-479	24884	Marlena Garsha	$1,320.50	$1,320.52	($0.02)
	11/4/2005	5	2004-433	26567	Ji Hurn Lee	$1,873.00	$1,873.00	$0.00
	12/5/2005	2	2001-189	22754	Sujin Lee	$4,981.56	$3,481.56	$1,500.00
	12/29/2005	5	2002-288	13874	Thomas Smith	$1,670.00	$0.00	$1,670.00
	12/29/2005	5	2002-288	13874	Thomas Smith	$6,244.00	$1,808.42	$4,435.58
	12/31/2005	3	2004-425	27261	Federico Manuel	$2,814.00	$0.00	$2,814.00
	3/1/2006	5	2003-336	23643	Ashgar J. Ebadat	$7,000.00	$0.00	$7,000.00
	4/10/2006	6	2000-130	17205	Bozena Grazyna Janczar	$2,390.25	$0.00	$2,390.25
	4/13/2006	5	2004-408	26646	Ventura Natividad	$3,594.00	$462.00	$3,132.00
	4/22/2006	5	2004-407	26803	Casey Dean Robinson	$3,103.75	$114.00	$2,989.75
	4/27/2006	5	2003-333	21639	Griffin Bailey	$3,192.00	$0.00	$3,192.00
	5/7/2006	5	2006-496	27953	Philip Victor Schember	$2,652.50	$100.00	$2,552.50
	5/11/2006	5	2003-307	16113	James DeBoer	$6,000.00	$900.00	$5,100.00
	5/11/2006	3	2004-410	14230	Francis Scorca	$7,105.75	$300.00	$6,805.75
	5/11/2006	5	2005-472	12204	Gregory Lacey	$2,500.00	$350.00	$2,150.00
	5/11/2006	3	2006-495	20764	Donald Ringer	$1,496.50	$1,496.50	$0.00
	6/3/2006	3	2005-491	23251	Thomas M. Ford	$1,684.00	$0.00	$1,684.00
	7/13/2006	5	1998-18	19341	Robert Mark Zuckerman	$18,005.50	$2,160.66	$15,844.84
	7/13/2006	5	2004-455	26821	Er-Gan Tyan	$3,526.25	$0.00	$3,526.25

Outcome	Effective Date	Probation Period	Case Number	License Number	Licensee Name	Recovery Amount	Amount Received	Balance Due
Probation	7/13/2006	5	2005-487	23177	Omid Javaherian	$6,000.00	$0.00	$6,000.00
	8/7/2006	3	2004-437	20809	John N. Sullivan	$3,186.25	$3,186.25	$0.00
	8/24/2006	5	2001-186	23569	Jon Michael Postajian	$9,435.25	$9,435.25	$0.00
	8/28/2006	3	2006-547	26962	Kenneth K, Huang	$1,064.00	$1,064.00	$0.00
	9/21/2006	5	2005-486	26349	Aprilyn Ann Brock	$3,264.00	$168.81	$3,095.19
	9/21/2006	3	2006-526	14877	Michael Blau	$401.50	$402.00	($0.50)
	9/22/2006	5	2006-508	18210	Steven L. Backman	$3,666.00	$3,666.00	$0.00
	10/11/2006	3	2004-394	21991	James P. Hall	$15,000.00	$1,666.65	$13,333.35
	10/13/2006	4	2006-520	22457	Michele Ruth Schauer	$727.50	$25.00	$702.50
	11/2/2006	5	2003-364	23408	Jeffrey A. Wood	$12,830.75	$0.00	$12,830.75
	11/2/2006	5	2004-454	21268	Ricky Chen	$3,778.50	$0.00	$3,778.50
	11/17/2006	3	2006-551	25828	Ming Jey Woo	$1,670.00	$1,670.00	$0.00
	11/24/2006	5	2004-461	18950	Nisha Denise Shanley	$7,414.00	$0.00	$7,414.00
	11/27/2006	3	2005-492	28089	Corey A. Hollis	$1,582.75	$0.00	$1,582.75
	12/15/2006	5	2006-505	25819	John Francis Walsh	$2,320.84	$0.00	$2,320.84
	12/15/2006	4	2006-519	24666	Joanne Elaine Wilson	$6,500.00	$0.00	$6,500.00
	12/20/2006	5	2005-463	20758	Dennis D Revere	$18,332.18	$0.00	$18,332.18
	12/20/2006	5	2006-507	17452	Morgan Jensen	$2,006.50	$0.00	$2,006.50
	12/20/2006	2	2006-546	24236	Ngoc H Tran	$1,437.00	$71.85	$1,365.15
	12/29/2006	5	2006-543	27930	Frank Lagomarsino	$3,200.00	$0.00	$3,200.00
	3/2/2007	3	2003-329	15545	Brian Kowalski	$2,632.00	$2,632.00	$0.00
					Probation Totals	**$411,053.67**	**$217,315.58**	**$193,738.09**

AGENDA ITEM L

FB570020
DATE: 01/24/2007

RELATED ACTION CODE/RECORD REPORT
BOARD OF CHIROPRACTIC EXAMINERS
FOR: ALL IDENTIFIERS

07/01/2006 TO 01/24/2007

SORT SEQ: RESPONDENT NAME

ACTION CODE: DAAG - DISCPLINARY CASE RECEIVED/INITIATED

DISCIPLINARY #	DBA NAME	STAT	SUMMARY STATUS	RECEIVED DATE	ACTN CODE DATE	REFERENCE	INV TP
AC 2007000583 0		RAG	O	09/29/2006	09/29/2006		L
AC 2007000592 0		DA1	O	10/26/2006	10/26/2006		L
SI 2007000590 0		RSP	C	10/17/2006	10/17/2006		
SI 2007000581 0		HDS	O	09/07/2006	09/07/2006		A
AC 2007000604 0		AAG	O	01/22/2007	01/22/2007		L
AC 2007000574 0		HDS	O	07/10/2006	07/10/2006		L
SI 2007000575 0		CPO	C	07/17/2006	07/17/2006		
AC 2007000595 0		AAG	O	11/13/2006	11/13/2006		L
AC 2007000577 0		DA1	O	08/08/2006	08/08/2006		L
AC 2007000596 0		DA1	O	11/21/2006	11/21/2006		L
SI 2007000603 0		SOI	O	01/12/2007	01/12/2007		A
SI 2003000313 0		AAG	O	03/25/2002	12/04/2006		L
AC 2007000585 0		RAG	O	09/29/2006	09/29/2006		L
AC 2007000576 0		HDS	O	08/08/2006	08/08/2006		L
AC 2007000586 0		RAG	O	09/29/2006	09/29/2006		L
AC 2007000579 0		DA1	O	08/31/2006	08/31/2006		L
SI 2007000582 0		CPO	C	09/07/2006	09/07/2006		
AC 2007000587 0		RAG	O	09/29/2006	09/29/2006		L
SI 2007000578 0		CPO	C	08/25/2006	08/25/2006		
AC 2007000593 0		DA1	O	10/26/2006	10/26/2006		L
SI 2007000589 0		SOI	O	10/10/2006	10/10/2006		A
SI 2007000601 0		MVS	O	12/04/2006	12/04/2006		A
AC 2007000588 0		RAG	O	09/29/2006	09/29/2006		L
AC 2007000602 0		DA1	O	01/05/2007	01/05/2007		L
SI 2007000591 0		SOI	O	10/26/2006	10/26/2006		A
AC 2007000580 0		RAG	O	09/05/2006	09/05/2006		L
AC 2007000578 0		HDS	O	08/22/2006	08/22/2006		L
AC 2007000600 0		DA1	O	12/04/2006	12/04/2006		L
AC 2007000584 0		RAG	O	09/29/2006	09/29/2006		L
AC 2007000598 0		DA1	O	11/22/2006	11/22/2006		L
AC 2007000594 0		DA1	O	10/26/2006	10/26/2006		L
AC 2007000597 0		AAG	O	11/21/2006	11/21/2006		L
SI 2007000599 0		DA1	O	11/28/2006	11/28/2006		A

THE NUMBER OF OPEN RECORDS FOUND 29
THE NUMBER OF CLOSED RECORDS FOUND 4
THE OVERALL NUMBER OF RECORDS IS 33

AGENDA ITEM M

BOARD OF CHIROPRACTIC EXAMINERS
LICENSE STATISTICAL DATA
As of January 7, 2007

LICENSE TYPE	CANCELLED	DECEASED	FORFEITED	REVOKED	SUSPENDED	DENIED	INACTIVE	VALID/ACTIVE	CE AUDIT	VOLUNTARY SURRENDER	150-DAY TEMP. LICENSE
DC	7,551	1,101	1,027	313	8	16	1,783	13,742	59	58	24
SAT	3,490	10	1,324	53	1	2		1,223		3	2
COR	960	48	270	5	1			1,985			
REF	4		14					18			
TOTALS	**12,005**	**1,159**	**2,635**	**371**	**10**	**18**	**1,783**	**16,968**	**59**	**61**	**26**

License Types Defined

DC = Doctor of Chiropractic
SAT = Satellites
COR = Corporations
REF = Referral Services

Column Descriptions

Cancelled - pursuant to California Code of Regulations section 355(b).
Deceased
Forfeited – license is delinquent, 60-days has passed from the date of expiration.
Revoked – as a result of a formal disciplinary action.
Suspended – temporary suspension of license pursuant to a criminal court order.
Denied - denial based upon Family Code section 17520 for failure to resolve delinquent child support payments.
Inactive – licensee paid the renewal fee, but did not complete the required Board-approved continuing education hours.
Valid/Active – current licensees that have paid their renewal fee and completed the Board-approved continuing education hours.
CE Audit – licensees that have been selected for a CE audit.
Voluntary Surrender – license surrendered as a result of a formal disciplinary action.
150-day Temporary License – license issued for 150-days pending the resolution of delinquent child support payments pursuant to Family Code section 17520.

AGENDA ITEM N

2006 Quarterly Report
Chiropractic Law and Professional Practice Exam (CLPPE)

Month	# of Tests Taken	Passed	%	Average Score	Failed	%	Average Score	High Score	Low Score	# Licensed
Jan-06	96	55	57%	82.87	41	43%	71.51	96	62	55
Feb-06	86	56	65%	83.89	30	35%	71.13	90	56	56
Mar-06	68	38	56%	83	30	44%	71.47	92	56	38
1st Quarter Totals	250	149	59.6%	83.29	101	40.67%	71.39	96	56	149
Apr-06	67	37	55%	83.89	30	45%	63.20	92	6	37
May-06	144	95	66%	83.26	49	34%	71.27	92	48	95
Jun-06	27	19	70%	82	8	30%	71.25	88	62	19
2nd Quarter Totals	238	151	63.66%	83.05	87	36.33%	68.57	90.67	38.67	151
July-06	82	49	60%	83.34	33	40%	72.42	92	56	49
August-06	70	37	47%	81.89	33	39%	71.94	92	62	37
Sep.-06	40	26	65%	81.69	14	35%	69.86	92	60	26
3rd Quarter Totals	192	112	57.33	82.31	80	38%	71.41	92	59.33	112
Oct-06	41	28	68	82.36	13	32	71.85	90	66	28
Nov-06	63	38	60	84.05	25	40	73.04	96	66	38
Dec-06	33	22	67	83.91	11	33	71.45	94	66	22
4th Quarter Totals	137	88	65	83.44	49	35	72.11	93.33	66	88
Yearly Totals-2006	817	500	61.40%	83.02	317	37.5	70.87	93	55	500

Timeline of events concerning
Palmer College of Chiropractic Florida's original application dated May 13, 2005

Exhibit

1 **May 18, 2005 – Letter from** Douglas E. Hoyle with copy of the college's application dated May 13, 2005, and the Council on Chiropractic Education (CCE) site team report dated December 6, 2004.

2 **June 14, 2005** – Faxed letter from Douglas Hoyle to Lavella Matthews.

3 **BOARD MEETING - July 21, 2005** - Board tabled approval pending the outcome of the CCE site report.

4 **August 8, 2005** - Fax cover sheet and letter from the CCE from Douglas Hoyle.

5 **BOARD MEETING - October 20, 2005** – public comment provided by Douglas Hoyle no motion was made.

6 **November 9, 2005** - Memo faxed to Board members from Lavella Matthews re: PCCF not incompliance with CCE standards.

7 **BOARD MEETING - November 17, 2005** - Motion by Dr. Hamby, D.C. for Palmer College to provide correspondence. Seconded by Judge Duvaras.

8 **January 9, 2006** - Letter from Douglas Hoyle regarding the CCE progress report prepared by Palmer College, Florida and submitted to CCE on December 2, 2005.

9 **January 11, 2006** - Letter from Laura Weeks, D.C. with the CCE addressed to Catherine Hayes re: PCCF accreditation.

10 **BOARD MEETING - January 19, 2006,** motion by Dr. Ron Hayes, D.C. to table until the next meeting. Seconded by Dr. Tyler, D.C.

11 **February 20, 2006** - Letter from a student (Lynn Mabry) that wants to practice in California.

12 **February 27, 2006** - Letter addressed to all Board members from Douglas Hoyle (Dr. Stanfield, D.C. responded to this letter on March 29, 2006).

13 **March 23, 2006** - Memo to Dr. Stanfield, D.C. and Ed Weathersby, DC, FCLB from David S. O'Bryon, ED, Assoc. of Chiropractic Colleges re: Information Needed by Chiropractic Colleges Regarding Accreditation Status.

14 **March 29, 2006** - Letter from Dr. Stanfield, D.C. to Douglas Hoyle in response to his February 27, 2006 letter requesting a meeting to discuss the pending application for approval.

15 **April 26, 2006** - Letter from Larry Patten, CEO with Palmer Chiropractic College, Iowa to Catherine Hayes officially withdrawing their request for Board approval.

16 **BOARD MEETING April 27, 2006** – College approval withdrawn.

BOARD MEETING June 22, 2006 – No discussion about Palmer.

Timeline of events concerning
Palmer College of Chiropractic Florida's original application dated May 13, 2005

17 **June 29, 2006** - Letter from Larry Patten, CEO Palmer Chiropractic College, Iowa to Catherine Hayes re: Request to reapply for approval and indicated a new application was enclosed; however, no application was enclosed with letter.

18 **July 5, 2006** - Letter from Douglas Hoyle, Palmer, Florida to Catherine Hayes re: adding a letter from Martha S. O'Connor, CCE Executive Director to their application for approval (the application resubmission was never received).

19 **July 11, 2006** - Letter from Lavella Matthews (faxed and mailed) to Douglas Hoyle indicating that the Board did not receive an application and that a new application is being developed.

20 **July 25, 2006** - Memo to Drs. Tyler and Yoshida, DC, from Lavella Matthews. Ms. Matthews provided a copy of the July 5, 2006 letter and advised that the new application was being developed.

21 **BOARD MEETING August 10, 2006** - Judge Duvaras makes a motion to accept the original application that was withdrawn and give Palmer a 3 month provisional approval seconded by Dr. Columbu, D.C. Motion failed.

22 **September 20, 2006** - Letter to Douglas Hoyle from Lavella Matthews providing him with a copy of the Board's new application.

23 **September 22, 2006** - Letter from Robert Leventhal, Esq., dated September 22, 2006 to Catherine Hayes regarding the college's application (originals for all Board members, also faxed to Board office).

24 **September 26, 2006** - Letter from Robert Leventhal, Esq., to Paul Bishop, Board counsel, re: concerns and issues that Palmer Florida has with the new application.

25 **September 27, 2006** - Letter from Paul Bishop, staff counsel, dated September 27, 2006, to Robert Leventhal, Esq., in response to his letter dated September 26, 2006. In addition to responding to Mr. Leventhal's concerns, Mr. Bishop's letter also relates a history of the events concerning Palmer College of Chiropractic Florida's original application dated May 13, 2005.

26 **November 16, 2006** - Letter from Paul Bishop, staff counsel, dated November 16, 2006, to Larry Patten, Chief Executive Officer, Palmer College of Chiropractic explaining that the previous application cannot be resubmitted or restored and that a new application must be submitted for the Board's members review.

AGENDA ITEM P

Web License Lookup Hits (Calendar Year 2006)

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
CHIROPRACTIC													
Chiropractors	26,718	25,045	31,053	26,845	29,339	26,860	26,310	30,617	27,796	35,780	30,250	23,644	340,257
Corporation	800	690	756	763	821	755	1,464	848	779	1,469	673	697	10,515
Referral Service	158	127	131	221	166	165	192	167	192	845	188	168	2,720
TOTAL	27,676	25,862	31,940	27,829	30,326	27,780	27,966	31,632	28,767	38,094	31,111	24,509	353,492
COURT REPORTERS													
Certified Shorthand Reporter	3,860	3,562	4,423	4,062	4,296	4,755	4,708	5,571	4,026	5,492	4,010	4,932	53,697
TOTAL	3,860	3,562	4,423	4,062	4,296	4,755	4,708	5,571	4,026	5,492	4,010	4,932	53,697
DENTAL													
Additional Office	502	605	650	639	561	586	579	701	663	1,460	734	597	8,277
Conscious Sedation Permit	426	334	463	394	352	404	408	636	679	1,229	503	303	6,131
Dental License	55,329	55,281	99,654	55,303	57,761	56,876	57,469	88,047	88,450	87,262	68,105	69,073	838,610
Fictitious Name	1,664	1,675	2,428	1,755	2,010	1,463	1,795	1,879	1,891	3,059	1,938	2,074	23,631
General Anesthesia	435	393	432	490	437	372	435	549	575	1,160	420	360	6,058
OMS Permit	250	252	296	290	409	336	369	458	441	1,112	333	362	4,908
Oral Conscious Sedation Certification	392	408	405	433	366	368	393	538	599	1,296	495	344	6,037
Registered Provider	1,365	1,234	1,620	1,321	1,379	1,289	1,362	1,390	1,551	2,223	1,515	1,376	17,625
Special Permit	283	318	358	349	394	270	302	388	351	1,103	407	302	4,825
TOTAL	60,646	60,500	106,306	60,974	63,669	61,964	63,112	94,586	95,200	99,904	74,450	74,791	916,102
DENTAL AUXILIARIES													
Registered Dental Assistants and Hygienists	11,809	11,481	12,713	8,959	9,870	17,116	14,571	43,965	35,615	15,158	21,791	8,906	211,954
TOTAL	11,809	11,481	12,713	8,959	9,870	17,116	14,571	43,965	35,615	15,158	21,791	8,906	211,954

AGENDA ITEM Q

TIME OF EVENTS CONCERNING PROPOSED REGULATION - SECTION 361 MANIPULATION UNDER ANESTHESIA (MUA)

Exhibit

1. **April 23, 2003 Board Minutes** – Proposed language initially introduced to the Board members for discussion and action.

2. **July 24, 2003 Board Minutes** – Mr. Marder moved to adopt the proposed regulation and proceed to public hearing. Dr. Stanfield seconded the motion. The motion was approved.

3. **October 23, 2003** – Copy of Notice for public hearing.

4. **October 23, 2003** – Written comments received during the 45-day comment period.

5. **January 15, 2004 Board Minutes** – Mr. Marder moved to table board action on the proposed regulation in order to collect sufficient information to develop an appropriate regulation, and hold an open board meeting to address the MUA issue and move forward with a regulation. Mr. Lewis seconded the motion. The motion was approved.

6. **March 18, 2004 Board Minutes** – Meeting held to take public input on the issue of MUA. Copies of handouts presented at the meeting.

7. **April 22, 2004 Board Minutes** – Dr. Stanfield moved to adopt the proposed language, as modified, and to proceed to public hearing. Dr. Hamby seconded the motion. The motion was approved.

8. **January 20, 2005 Board Minutes** – Dr. Hamby motioned to amend the regulation by removing section "d" from the language. Dr. Stanfield seconded the motion. The motion was approved..

9. **August 24, 2005** – Copies of documents from the rulemaking file submitted to the Office of Administrative Law (OAL).

10. **October 5, 2005** – Notice of disapproval from OAL

11. **October 13, 2005** – Memorandum to David Hinchee from Bill Gausewitz, OAL.

12. **October 20, 2005 Board Minutes** – Discussion on whether to address OAL's concerns or withdraw the regulation.

13. **November 17, 2005 Board Minutes** – Judge Duvaras moved to withdraw the MUA regulation. Dr. Yoshida seconded the motion. The motion was approved.

Palmer College of Chiropractic Florida
Documents Referenced in Timeline

Items 1-7

(1)

Palmer

Chiropractic University System

BOARD OF CHIROPRACTIC EXAMINERS
05 MAY 18 AM 11:07

May 13, 2005

Lavella Matthews
Licensing Program Analyst
Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833-2931

Dear Ms. Matthews:

Enclosed is Palmer College of Chiropractic – Florida's (PCCF) application for approval from the California Board of Chiropractic Examiners so that students who receive their D.C. degree from PCCF can sit for the California exam. The letter from The Council on Chiropractic Education (CCE) granting accreditation is included. We are also including the CCE site team report and our response dated December 6, 2004. Since the receipt of that letter and report, the CCE has conducted another visit to the PCCF campus. Information from that visit is still being reviewed. The final report has not been received from the CCE, nor has the appearance by Palmer before the Commission on Accreditation of CCE regarding the site visit taken place.

I hope that the enclosed application and documents meet your needs in reviewing the PCCF Program. Please do not hesitate to contact me if you have any questions pertaining to the materials or PCCF. I can be contacted at (563) 884-5512 or through e-mail at dehoyle@aol.com.

Genuinely,

Douglas E. Hoyle

Douglas E. Hoyle, Ph.D.
Chief Institutional Effectiveness Officer
Palmer Chiropractic System

Enclosures

STATE OF CALIFORNIA — ARNOLD SCHWARZENEGGER, Governor

Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931
Telephone (916) 263-5355 FAX (916) 263-5369
CA Relay Service TT/TDD (800) 735-2929
Consumer Complaint Hotline (866) 543-1311
www.chiro.ca.gov

Application withdrawn 4/26/06

APPLICATION FOR APPROVAL OF CHIROPRACTIC COLLEGES ACADEMIC YEARS JULY 1, 2001 – JUNE 30, 2007

The Board of Chiropractic Examiners is required by Title 16, Section 330 of the California Code of Regulations to approve chiropractic colleges for applicant licensure purposes. To ensure that your college is evaluated for approval for the three-year period beginning July 1, 2004, please complete this application and return it to the Board's office.

1. Name of chiropractic college: Palmer College of Chiropractic Florida

   Address: 4777 City Center Parkway

   City: Port Orange State: FL Zip Code: 32129-4153

2. Type of approval sought: ☒ Initial Approval ☐ Continued Approval

3. Accredited by the Council on Chiropractic Education (CCE)? ☒ Yes ☐ No
   If yes: Date application for reaffiliation of accreditation is due: May 2006
   Date application for continued accreditation is due: _____

4. Has the school entered into any resolutions or agreements with CCE that deviate from the Commission on Accreditation (COA) standards? ☐ Yes ☒ No
   If yes, please list: _____

5. Accredited by any other accrediting agency? ☒ Yes ☐ No
   If yes: Name of accrediting body: North Central Association of Colleges and Schools
   Date of application for continued accreditation is due: 2008

6. Affiliated with a health science teaching center? ☐ Yes ☒ No

   If yes, please identify: _____

   If no, please state briefly how clinical instruction is provided:

   Classroom instruction, Observation and Practical Experience in Campus and Outreach Clinic Settings

7. Please enclose a copy of the college's bulletin, catalogue and a copy of the last CCE inspection report.

8. Does the school:

   a. Provide all students with training in performing completed histories and physicals? ..... [X] Yes [ ] No

   b. Cover all subjects currently required by sections 331.12.2? ..... [X] Yes [ ] No

9. What is the ratio of full-time faculty members to students? 1:14

10. Does the actual clinical experience provided to each student include?:

Examining, Diagnosing and Treatment	[X] Yes [ ] No
Spinal Analysis	[X] Yes [ ] No
Palpation	[X] Yes [ ] No
Chiropractic Philosophy	[X] Yes [ ] No
Symptomatology	[X] Yes [ ] No
Laboratory and Physical Diagnosis	[X] Yes [ ] No
X-ray Interpretation	[X] Yes [ ] No
Postural Analysis	[X] Yes [ ] No
Diagnostic Impressions	[X] Yes [ ] No
Adjustive Technique	[X] Yes [ ] No
Psychological Counseling	[X] Yes [ ] No
Demonstration and Practice of Physical Therapy Procedures	[X] Yes [ ] No

11. Do the minimum graduation requirements for each student include?:

25 Physical Examinations, of which at least 10 must be outside patients	[X] Yes [ ] No
25 Urinalyses	[X] Yes [ ] No
20 CBC's	[X] Yes [ ] No
10 Blood Chemistries	[X] Yes [ ] No
30 X-ray Examinations	[X] Yes [ ] No
10 Proctologic Examinations	[X] Yes [ ] No
10 Gynecologic Examinations	[X] Yes [ ] No
250 Patient Treatments (Visits)	[X] Yes [ ] No
Written interpretation of at least 30 different X-ray series, while a senior in the clinic	[X] Yes [ ] No
500 Hours of Practical Clinical Experience	[X] Yes [ ] No

12. Please use the space below to provide any comments or additional information you believe will be helpful to the Board in evaluating this application.

Please complete the chart below detailing the number of hours taught in each required subject area.

Subject	Minimum Hours Required	Hours Completed by Applicant
Anatomy, including embryology, histology, and human dissection	616	624
Physiology (must include laboratory work)	264	264
Biochemistry, clinical nutrition, and dietetics	264	264
Pathology, bacteriology, and toxicology	440	444
Public health, hygiene and sanitation, and emergency care	132	132
Diagnosis **Please include other subjects and hours not listed on this section.** * Minimum Additional Diagnostic Subjects	**792 including:** 1) E.E.N.T. 2) Serology 3) Dermatology 4) Syphilology 5) Geriatrics 6) x-ray interpretation 7) Neurology	854 including: 1) 24 2) 12 3) 24 4) 24 5) 60 6) 204 7) 96 *408
Obstetrics, gynecology and pediatrics	132	132
Principles and practice of chiropractic **Please include other subjects and hours not listed on this section.**	**518 including:** 1) chiro. technique 2) chiro. philosophy 3) orthopedics 4) x-ray technique& radiation protection 5) **430 hours clinic** including office procedures	1416 including: 1) 288 2) 108 3) 36 4) 84 5) 900
Physiotherapy	120	120
Psychiatry	32	36
Electives	660	660
Total hours	**4,400**	4,944

Clinical Experience	Minimum Number Required	Number Completed by Applicant
1) Physical Examinations	25 (10 not student patients)	1) 25
2) Urinalysis	25	2) 25
3) CBC's	20	3) 20
4) Blood chemistries	10	4) 10
5) X-ray examinations	30	5) 30
6) Proctologic examinations	10	6) 10
7) Gynecologic examinations	10	7) 10
8) Patient treatments including diagnostic, adjustive technique, and patient evaluation	250	8) 250
9) Written interpretation of X-ray (film or slide)	30	9) 30
10) Practical clinical experience hours	518	10) 720
11) Physiotherapy procedures performed by the student on their own clinic patients	30	11) 30

Pursuant to Section 4 of the Chiropractic Initiative Act of California and Title 16, California Code of Regulations, Section 331.11, the California Board of Chiropractic Examiners will only approve chiropractic colleges that strictly adhere to the standards adopted by The Council on Chiropractic Education, Commission on Accreditation. Failure to comply with this requirement will result in denial of approval status or be cause for revocation of continued approval.

I certify under the penalty of perjury that the foregoing information contained in this application and any attachments here to are true and correct, and that all subjects referred to herein are contained within the established curriculum as set forth in California Code of Regulations, Title 16, Section 331.12.2. Providing false information or omitting required information may constitute grounds for denial of approval status.

Signature of President

May 11, 2005
Date

Donald P. Kern, D.C.
Type or Print President's Name

(affix college seal)

PROGRESS REPORT

SUBMITTED AS A REQUIREMENT FOR CONTINUED ACCREDITATION

TO THE COMMISSION ON ACCREDITATION OF THE

COUNCIL ON CHIROPRACTIC EDUCATION

DECEMBER 6, 2004

PALMER CHIROPRACTIC UNIVERSITY SYSTEM

723 Brady Street

Davenport, IA 52803

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INTRODUCTION

At its July 2004 Semi-annual meeting, the Commission on Accreditation (COA) of the Council on Chiropractic Education (CCE) met with representatives of the Palmer College of Chiropractic (PCC) doctor of chiropractic degree program and other members of the Palmer Chiropractic University System in a progress review meeting to discuss PCC's requests for substantive change to include the PCC location in Port Orange, Florida and the implementation of the Mastery Curriculum at that site.

In addition to its review of the substantive change requests, the COA considered information provided in response to the COA's request for information following the January 2004 COA meeting and PCC's response to the Final Report of a Focused Site Visit. In the July 2004 meeting there were a number of items discussed including the PCC plans for future implementation of the Mastery Curriculum at its other campuses, faculty development, scholarship and research opportunities, clinic operations, faculty hiring, mission, service and research.

Following the meeting, the COA met in executive session and reached a consensus decision to extend accreditation to include the Palmer College of Chiropractic Florida (PCCF) site. As of the July 27, 2004 notice, the COA concluded that PCCF should be included in (but not limited to) the regular accreditation cycle for PCC.

The COA considered the responses provided by Palmer to requests for information, the site visit report, and responses provided during the COA appearance by members of Palmer. It was considered that there were areas from the January 2004 Standards where PCCF had not demonstrated compliance and which represented areas of concern to the COA. As such, the COA requested that a progress report be submitted to them on the following areas by December 6, 2004:

2.III.E. Faculty

2. Professional Development of Faculty

a. The DCP must provide faculty with opportunities to be engaged in research, scholarship, service, and professional development consistent with the mission, goals and objectives of the DCP.

PCC must provide evidence that faculty are provided opportunities to be engaged in research, scholarship, service and professional development consistent with the mission, goals and objectives of PCC.

RESPONSE:

In response to the COA/CCE's stated concern over PCCF's compliance with Standard 2.III.E (Faculty), Paragraph 2. (Professional Development of Faculty), PCC submitted specific plans to increase its financial, faculty, physical and administrative support for faculty research and scholarly activity (see below). Included in this plan are the primary elements of PCC's efforts to increase compliance with this standard. These include the following elements of our plan, as updated in this report:

- **Reinvigorate the Palmer Florida Research Council:** Schedule and hold meetings with a record of proceedings. While the Research Council has met several times already and provided feedback, the Council needs to be put on a regular schedule.
  Target Date for (re)organizing the Council: January 15.
  Responsibility: TDB research officer*, Niles, Meeker

- **Schedule research skills seminars to be given at Florida:** As planned as a result of the original needs assessment, Faculty from PCCR Davenport will deliver at least five 6-12 hour seminars to be delivered on a Friday and/or Saturday, targeting interested faculty and students at Florida. The seminars will cover: Basic Research Design and Statistics; Scientific Writing; Bioethics and the IRB Process (including NIH human subject certification); Critical Appraisal of Scientific Literature; and Research Proposal Development. The first seminar will occur in January, and monthly thereafter. The first seminar will be delivered by Dana Lawrence, former editor of the Journal of Manipulative and Physiological Therapeutic, and focus on scientific writing and critical appraisal. It will take place all day Friday, January 7. All faculty will be required to attend.
  Target Date for initial seminar: January 7.
  Responsibility: Meeker, TBD research officer*, PCCR faculty

- **Identify faculty to attend ACC-RAC:** The Research Agenda Conference, March 17-19, 2005, Las Vegas provides research training and exposure to the latest chiropractic research. Five Florida faculty will be able to attend with financial assistance from the HRSA contract. Each travel stipend will be $650.

Additional travel costs will need to be reimbursed by Florida or PCCR – to be discussed.
Target Date for determining attendees: January 15.
Responsibility: Niles, TBD research officer*, Meeker

- **Collect and maintain list of Florida faculty and staff research projects, presentations and publications:** This list will be published on a regular basis.
  Target Date for assembling updated list: December 30.
  Responsibility: Niles, TBD research officer*, Meeker

- **Send memo to faculty regarding the availability of internal project funds:** Dr. Niles and Meeker have agreed to provide funds from the Florida and PCCR budgets that will be made available for appropriately proposed and approved research projects. Each project will be limited to $2,500. The process for proposal development is already available on the Research page of the Center for Teaching and Learning website, and will be reviewed for faculty in seminars and Research council meetings at Florida.
  Target Date for sending the memo: December 15.
  Responsibility: Niles, Meeker, TBD research officer*

*PCCF has appointed Dr. Don Dishman as the Interim Director of Research while a formal search for the position is underway, and he has assumed co-responsibility for these plan objectives at this time.

PCCF's progress in improving its compliance with this Standard, particularly the provision of faculty opportunities for research and scholarship, is also closely tied to its efforts in meeting Standard 2.III.I.3, which are documented later in this report (see below).

PCCF offers faculty members opportunities to engage in service activities in the typical venues available on all of the campuses of the Palmer Chiropractic University System. Examples specific to the PCCF campus include:

- PCCF faculty members actively participate on College committees, as assigned, including the Curriculum Management, Clinic Management, Student Academic Support, Student Assessment, Faculty Development and Achievement, and the Academic Technology Committees.

- PCCF faculty members participate in community events, such as the recent Halifax River cleanup, and the college's participation to the Port Orange Family Days activities.

- PCCF faculty members serve as advisors for student clubs, including various technique clubs, and the philosophy club.

PCCF also provides its faculty with support for ongoing professional development. The PCCF Faculty Development Committee, with a FY 04/05 budget of $20,000, accepts and considers applications from faculty for both Short Term Professional Development Grants, to help finance faculty attendance and participation in conferences and seminars, and Long Term Professional Development Grants, to provide tuition reimbursement for advanced degree work. The application procedures and forms are available on the PCCF WebCT® program.

Other professional development activities include the following:

- Development in the use of ParScore and ParTest (grading and testing software). Also provided training and support to PCCF faculty for ParTest Online which is being used to administer final exams.

- Workshops on WebQuests and Collaborative Learning for all PCCF faculty

- Hiring an instructional technologist who will join the PCCF faculty to administer WebCT, manage ParSystem, and provide training and ongoing support in educational technology to faculty.

- Conducting a 4-hour ethics workshop via video conference for PCC, PCCW and PCCF faculty serving on College boards.

- Conducting training for PCCF faculty who will serve as members and/or chairs of newly formed Academic Affairs Committees (Faculty Development, Academic Technology, etc.)

- Since the beginning of PCCF, regular faculty in-service days have been conducted to address a variety of issues, many of them related to professional development. (e.g., HIPAA, FERPA compliance, Safety, Sexual Harrassment, etc.)

Finally, the annual faculty FTE apportionment has been adjusted from 60 hours of instruction to 54 hours of instruction, 3 hours of committee work, and 3 hours of research/scholarly activities for all PCCF faculty, providing release time in support of service and professional development activities as well.

2.III.A. Mission, Self-Assessment and Planning

3. Self-Assessment

The DCP must carry out a periodic self-assessment in which it:

a. Identifies the manner in which resources are utilized to the fulfillment of mission and attainment of goals and objectives.

RESPONSE:

The manner in which resources are utilized to the fulfillment of mission and attainment of goals and objectives is conducted by the Palmer Chiropractic University System Board of Trustees which is charged with the fiduciary responsibilities of each college within the Palmer System and subsequent planning initiatives. The Board meets regularly to discuss the expenditure of funds for significant planning projects and acquisition of revenues.

Minutes of the Finance and Operations Committee are maintained from each Palmer Board Meeting to document activity surrounding each planning project. For example, at the most recent Board meeting, topics considered by this committee included an investment report, an auditors report, presentation of the FY 2004-2005 Budget Performance for each college within the Palmer System, an enrollment report for each campus, the approval of a new Board policy on financial transactions, an update on construction projects including a new building on the PCCF campus, a report on the Perry Hill apartments in Davenport, an update on the PCC Day Care Center, an update on renovations to the B.J. Palmer Mansion, the establishment of future agenda items, and a discussion on the Palmer West campus facility.

In addition to Board supervision of financial resources, the Palmer Chiropractic University System has a Chief Financial Officer, Mr. Tom Tiemeier, who oversees the financial aspects of each college within the System. This person ensures that budgets are developed based upon needs of the college as well as anticipated college planning initiatives in the year ahead (both of which are collected from faculty and administrators) and supervises the day to day business affairs of the University System.

2.III.A. Mission, Self-Assessment and Planning

4. Planning

The DCP must engage in formal planning activity based on its self-assessment and directed toward:

a. Identifying changes in resources and organization of resources that would provide for more complete fulfillment of the mission and attainment of goals and objectives.

RESPONSE:

The approach to planning within the Palmer Chiropractic University System has undergone significant transformation since the changes in executive administration from the previous administration. The following encapsulates those changes:

The Palmer Chiropractic University System Board of Trustees has embraced new planning initiatives by changing from its Planning Committee to a Strategic Organizational Development Committee. This change was made to broaden the initiatives that the Board could address. Evidence of this new approach is found in two new initiatives recently undertaken by the Board. Specifically, the Board has created two new ad hoc committees that have been charged with examining the Palmer Philosophy of Chiropractic to determine if it still represents the philosophy to which Palmer is committed. In doing so, the Board held a retreat to focus on defining its philosophical basis for chiropractic. They prepared a draft statement which follows:

CHIROPRACTIC PHILOSOPHY

The basic premise of Palmer philosophy is that life is intelligent and that the purpose of the human body's innate intelligence is to maintain the body in a state of health. The Palmer view of chiropractic that the body is a self-regulating, self-healing organism is an affirmation of health rather than a disease and symptom orientation. Central to Palmer philosophy is the removal of impediments to health through the correction of subluxations thus normalizing the nervous system and releasing the body's optimal potential.

The Board decided to collect critiques and reactions from faculty and staff at each of the Palmer Colleges. Focus groups were conducted to collect information which was collated and will be provided for the Board's deliberation at an upcoming board meeting. Additionally, a survey collecting reactions to the statement from alumni is currently in process. That survey is being sent to approximately 18,000 PCC and PCCW alumni to collect input on the statement.

An additional retreat was held in September 2004 to discuss structure of the Palmer System. This retreat consisted of a SWOT (Strengths, Weaknesses, Opportunities, and Threats) as part of planning activities for the System.

Specifically, the Board considered topics such as defining what Palmer stands for, what the Palmer organization should encompass, whether Palmer has the best programs to produce the best graduates, Board organizational structure, corporate organization, what constitutes quality education, improving communications both within the board and to external stakeholders, the chancellor position, and the interim title of current presidents. These committees will be reporting to the Board once they have had adequate opportunity to meet.

With the appointment of a new chief planning officer, Dr. Douglas E. Hoyle, planning processes at each campus were also transformed. In the previous administration, a master planning document was developed to represent System-wide planning initiatives. That document proved to be difficult to administer and was considered unwieldy.

In its place was a process of committees, institutional research, and tactical planning processes resulting in a better document. At PCCF a system of committees was developed to examine campus issues. These committees are:

PCCF Program Oversight
Provides oversight of the DCP and ensures congruency of the PCCF program with the mission, tenets, and educational principles of the PCUS. Serves in an oversight capacity receiving reports from the committees with in the PCCF Department of Academic Affairs, and makes recommendations to the President's Cabinet.

Curriculum Management
Strategically oversees and advises POC on all curricular matters involving development, implementation, assessment, change and resources

Clinic Management
Serves as the oversight body of the PCCF System of Clinics. Provides coordination of the activities of patient care and intern education in the Palmer Florida clinics. Sets overall objectives and coordinates activities of the clinic system. Serves as an advisory group to the POC and PCCF Campus Council in matters pertaining to clinic administration.

Student Academic Support
Reviews and makes recommendations regarding academic affairs policies and ensures compliance with all federal regulations including FERPA and ADA regulations. Additionally, it reviews and acts upon appeals from students who have been academically dismissed from the program and reviews and approves the intent to graduate list.

Student Assessment
Assists the Level Instructional Directors in developing assessment plans, use assessment outcomes data and level director recommendations to recommend curriculum changes. Responsible for producing a comprehensive assessment report for the POC on a quarterly basis.

Faculty Development and Achievement
With oversight from the POC, develops, administers and evaluates faculty development activities, faculty enrichment and faculty achievement awards

Academic Technology
Reviews and assesses the use of educational technology to support the PCCF academic program. Serves as a recommending body to the POC regarding matters pertaining to educational technology.

Each committee meets on a monthly or bi-monthly basis. Minutes are kept of each committee evidencing the issues under discussion. Issues identified for action are provided to the Senior Campus Administrator who is on the PCC President's cabinet for representation.

At PCC, the President's Cabinet oversees campus planning initiatives for that campus and meets on a regular basis. Minutes are kept of the Cabinet meetings evidencing the issues under discussion. In addition, there is a Campus Council that discusses campus-wide initiatives so that representatives from across campus have information about issues being considered.

The President of PCC has also reinstituted campus meetings with various campus stakeholders to provide information on campus actions, planning initiatives, and to collect information from the stakeholders such as student government and various faculty groups. These meetings take the form of luncheons held on a regular basis.

At PCCW two groups meet regularly to consider planning information. The President of PCCW holds regular meetings with the other executives of the college to discuss planning activities and campus issues. The Campus Council discusses campus-wide initiatives so that representatives from across campus have information about issues being considered.

While the structures that consider campus issues have been enhanced and transformed to have the methods for data collection. Surveys have been initiated to put the process for institutional research collection back on a regular timetable. Faculty, staff, and student satisfaction surveys have been administered on the PCCF campus. Staff and student satisfaction surveys have been initiated on the PCC campus and student, faculty, and staff satisfaction surveys have been administered on the PCCW campus. In the near future, alumni surveys will be administered to PCC and PCCW alumni. Information from these surveys will become part of the tactical planning processes pertaining to each campus.

A new process of tactical planning is currently underway on each of the Palmer campuses. Whereas the previous master planning document was developed by administrators only, the current process which is web-based provides access by faculty and staff on each campus. Once they have filled out the electronic survey, the results will be tabulated and presented to groups of administrators on each campus for deliberation

and the development of action plans. The plans will include the planning initiative, the name of the person accountable for addressing the initiative, timelines for accomplishing actions, and budgets associated with accomplishing the tactical issue. All of this information will be entered into a planning document that will be available for use on January 15, 2005.

In short, the planning processes within the Palmer System have been transformed for purposes of utility and effectiveness. It is expected that they will provide greater inclusion of Palmer stakeholders, be more organized in their utility, and provide greater consideration of outcomes.

2.III.G. Outcomes

A DCP must assemble and report biennially to the COA data demonstrating annual: student rates of completion of term courses and completion of the DCP; student and graduate performance on national board examinations and success of program graduates in obtaining jurisdictional licensure. Programs must demonstrate their use of these data, and may utilize other outcomes measurements and assessments in planning for ongoing development of the effectiveness of the DCP. Related benchmarks reflecting the 2004 CCE Policy BOD-56, will be used in determining the extent which the DCP is meeting stated requirements.

RESPONSE:

Given that the first graduating class at PCCF has yet to graduate, some of the outcome data is unavailable. Completion of the DCP, national board performance beyond Part I, and success in obtaining jurisdictional licensure are premature. However, student rates of completion of term courses are maintained (via transcripts) and utilized as outcomes of programmatic success. Student performance on Part I of the National Board Exam indicated that students are receiving a superior education. Outcomes on that exam could well be related to the "mock" national board exam experience of students (see below).

In August 2004 PCCF arranged with the National Board of Chiropractic Examiners to provide opportunity for PCCF students to take a "mock" national board exam. The students took the exam and the outcome indicated less than desired results according to normed data. As a result of the outcome of that exam plans were devised to stimulate performance of students on Part I of the National Board Exam. These included for the short term having intense study and review sessions on particular parts of the exam, having a PCCF faculty member provide an additional review in the area of biochemistry, and having a microbiology/pathology review conducted by a PCC or PCCW faculty member.

For the intermediate time frame plans included hiring faculty with content expertise in pathology, microbiology, and public health; correlating NBCE test plans to course learning objectives; and planning for NBCE reviews as part of the curricular program.

Finally, the long range plan to enhance student scores on NBCE exams includes conducting ongoing reviews and assessment of NBCE results; evaluation of the curriculum based upon benchmarks, and utilizing faculty with content expertise as course directors/course contributors.

2.III.H. Clinical Education

5. Student Assessment and Evaluation

a. The DCP must utilize a system of student assessment and evaluation that is based on the goals, objectives, and competencies established by the DCP, as well as those defined by the CCE Standards and appropriate to entry level chiropractic practice. The system must clearly identify the summative and formative methods used, and the level of performance expected of students in the achievement of these objectives and competencies.

RESPONSE:

As part of the Clinical Mastery Curriculum, and in preparation for the internship phase of the curriculum, a comprehensive clinical competency evaluation (CCCE) is administered in the beginning of the ninth quarter.

The purpose of the CCCE is to demonstrate that the intern candidate has achieved minimal clinical competency for entry into the chiropractic internship of the Palmer Florida Curriculum. The CCCE is an assessment of attitudes, knowledge, and skills consistent with CCE Clinical Competencies, and provide an exam format similar to components of Parts III and IV of the NBCE exams, and other licensing examinations.

The CCCE consists of three examination components including:

- Summative exam 200 multiple choice question computerized assessment
- Diagnostic Imaging 10 station examination using extended multiple choice format
- Practical exam 3 station OSCE format examination

SUMMATIVE EXAMINATION

The summative examination consist of a 200 question multiple choice examination that addresses ten clinical domains including:

- Case History
- Physical Examination
- NMS Examination
- Radiology
- Clinical lab and Special Studies
- Diagnosis
- Chiropractic Technique
- Supportive Techniques
- Case Management
- Ethics and Jurisprudence

DIAGNOSTIC IMAGING PRACTICAL EXAMINATION

The Diagnostic Imaging (DIM) practical examination consists of ten stations. Each candidate must complete all ten stations within the allotted time (four minutes). At each station, the candidate has the opportunity to view radiograph(s) and/or other diagnostic images of a patient. In addition, the candidate will have access to other clinical data.

A scannable answer sheet will be provided on which the candidate will mark the answer for the questions provided at the ten stations. Each station includes two extended multiple-choice questions for the candidate to answer concerning the case. Ten choices are provided for each question. The candidate is required to select two of the most correct choices.

Areas included in the DIM practical examination include:

- Normal Radiographic Anatomy
- Congenital anomalies and skeletal variants
- Scoliosis
- Intervertebral disc disease and spinal stenosis
- Spondylosis & Spondylolisthesis
- Skeletal dysplasia
- Traumatic skeletal disorders
- Hematological & Vascular conditions
- Bone infections

PRACTICAL EXAMINATION

In the Practical Examination, candidates actually perform assessments or procedures on a simulated patient, similar to those they might encounter in their internship in the Palmer Clinics. Cases will include cases that are commonly encountered in practice documented in the Chiropractic Job Analysis 2000, present cautions or contraindications to chiropractic case management, causes that require early referral to preserve the life/health of the patient, or cases that present significant diagnostic challenges.

The exam format includes three (3) fifteen minute stations, including 8 minutes for performance, and 7 minutes for verbal responses to questions posed from the two examiners in each station. Candidates will have three minutes to review the performance questions prior to entering the exam station. Each station is equipped with either a digital audio recorder and/or a digital video recorder to document the candidate's performance and verbal responses.

The three stations for the practical examination include:

- Case History and Clinical Impression
- Patient Assessment and Diagnosis
- Applied Clinical Sciences

Case History and Clinical Impression:

In the Case history and clinical impression station, the candidate is required to carry out a focused case history from a simulated patient and answer questions related to a clinical presentation.

After obtaining pertinent information form the simulated patient, the candidate will be presented with questions related to the following areas:
A. Additional relevant information that would be required from the patient
B. A clinical impression or working diagnosis based upon the information obtained
C. Questions pertaining to professional boundaries and jurisprudence relevant to the case

Candidates are evaluated on their ability to fully explore the parameters of the patient's condition and to elect specific clinically relevant elements of the history from the patient. The specific historical information enables the candidate to form a clinical impression and to rule in or rule out conditions of a similar nature or with similar presentations.

Patient Assessment and Diagnosis:

In the Patient Assessment and Diagnosis section, the candidate is required to perform specified focused physical examination procedures and NMS examination procedures on live simulated patient or using simulation manikins. The candidate may also be asked to listen to recordings of physical examination findings such as heart or lung sounds.

Following the performance component, the candidate is asked questions in any of the following areas:

A. Provide a working diagnosis based upon the information obtained from the history and exam.
B. Identify additional data from the physical examination that would support the working diagnosis.
C. Identify clinical laboratory, or diagnostic imaging studies that would be ordered to support the working diagnosis.
D. Explain the clinical significance of a procedure or report to the examiners using the findings from the procedures performed.
E. View radiographs and/or other diagnostic images of the patient. Select findings that are presented on the radiograph(s), and that are consistent with the additional clinical data.

Success in this section of the examination depends on the candidate's efficient and skillful performance of the required tasks, as well as on the effective use of the allotted time.

Candidates are evaluated on their clinical skills as well as their ability to communicate with the patient. The candidate is expected to address the patient as they would patients in the Palmer Clinics. Candidates will respect the patient's dignity at all times.

In communicating verbal answers to questions posed by the examiners, the candidate will be evaluated on their clinical knowledge obtained from the assessment of the simulated patient as well as diagnostic images that are available for the candidate's review. Additionally, candidates will be evaluated on their ability to effectively communicate their knowledge, clinical competency and confidence in diagnosis and establishing clinical impressions.

Applied Clinical Sciences:

In the performance component of the Applied Clinical Sciences section, the candidate is given four chiropractic technique listings. From the information provided, the candidate will demonstrate patient placement, doctor placement, doctor contact, line of drive/correction, stabilization, torque, and any necessary modifications to the thrust for special circumstances.

In the verbal components, based upon the candidates interaction with the standardized patient in the previous station and any additional clinical information provided, the candidate will be evaluated in their ability to answer verbal components relative to case management. Questions will pertain to supportive techniques including active and passive care modalities, patient education, professional boundaries, regulatory issues, reporting responsibilities, subluxation theories, and the ability to communicate professionally.

Candidates are evaluated on their clinical skills as well as their ability to interact with the patient in a professional manner with confidence and competence exhibited in their demeanor. Candidates will be expected to attend to the patient as they would in the Palmer Clinics, and to treat the patient with respect and dignity at all times.

GRADING CRITERIA

Each section of the examination (Summative, DIM practical exam, and Clinical Practical Exam) have a maximum score of 200 points. The candidate must successfully pass each section of the exam with a minimum score of 150 points. Students who score above 180 in all sections will receive recognition of honors.

Students must successfully complete all three sections of the exam to register for Clinic I. In the event that a candidate does not pass a section of the exam, they must retake the section(s) that were not passed the next time the exam is offered. A student who does not pass a section a second time will be required to re-take prescribed courses prior to taking the exam again.

Examiners for the practical examination receive training prior to the examination, and are required to grade according to the following grading templates.

OUTCOMES: Fall 2004 Administration of the CCCE Examination:

The first administration of the CCCE occurred November 17 – 18, 2004. Thirty candidates completed the summative examination, and 31 students completed the DIM practical examination and the clinical practical examination.

The summative examination had a pass rate of 70% (21 of the 30 students passed the exam with a minimum score of 70%).

The DIM practical examination had a 94% pass rate. (29 of the 31 students passed the exam with a minimum score of 70%)

The Clinical practical examination had an 84% pass rate. (26 of the 31 students passed the exam with a minimum score of 70%)

60% of the candidates passed all three components of the CCCE examination (18 of the 30 students who completed all three components of the examination)

f. Student assessment systems must:

(1) have a clear organizational structure for assessment;

(2) have a clear description of the role of faculty in assessment and how assessment information will be used in student evaluation;

(3) track and document student assessment and progress through the educational program including the integration of classroom performance, clinical performance, and the overall attainment of clinical competencies; and

(4) evaluate the effectiveness of assessment tools.

During the meeting with the COA, PCC representatives discussed the components of its assessment system. On pages 30-32 in its Response to the Final Report of a Focused Site Visit, PCC reported on various plans and activities it has developed and/or implemented in order to comply with the standards noted above. The COA requires an update on PCCF's compliance with these standards in the Progress Report requested at the end of the July 27, 2004 letter.

RESPONSE:

As soon as Palmer was notified that its programmatic assessment process was deemed inadequate, it immediately instituted a process of review of current assessment practices. It was concluded at that time that many of the practices utilized to assess student academic achievement were adequate but that the entire practice lacked several key components. These included a strong theoretical framework for instituting assessment and creating a college culture of assessment, a distinct approach that was coordinated

among the three Palmer campuses, individuals appointed to make the approach happen, a timeline within which the approach could be instituted, and budgets. These questions were answered through a set of assessment "summits" during which members of the PCC, PCCF, and PCCW communities came together to put an assessment process together. The following clarifies the key components of the process:

Overall Goals for the program across each Palmer campus:
To make program and student assessment processes and outcomes more public.
To train and involve faculty in valid and reliable assessment practices at program and course levels.
To use assessment data to make changes.
To create a culture of assessment for quality improvement.

Faculty Perception of Assessment – Creating Cultural Change

The assessment is of the program, not of faculty members or individual students. It will be one of the goals of the committee to move faculty from the perception that they are being measured. Through educating the faculty on program assessment, the Assessment Committee hopes to create a safe environment for faculty and engage them in the assessment process. A resource that will be helpful in training the focus group is *Assessing Academic Programs in Higher Education by Mary Allen.*

Theoretical Framework

Palmer's approach to programmatic assessment is based loosely upon the Brown Medical College's approach to assessment. This model identifies the desired attributes for graduates to possess. The curriculum is then assessed as to the extent to which it incorporates those attributes. Parts of the curriculum that do not contain a significant emphasis upon those attributes are revised to include them. Syllabi and course content are then revised to include that curricular content. Students are ultimately tested upon that information to determine if it is being learned.

Palmer Key Abilities for Program Assessment

A set of key abilities have been established to document those attributes and competencies that are expected of any Palmer graduate regardless of their educational location. The Abilities or Learning Outcomes listed will be the same for the three campuses. Differences may be expressed in the development of the measurement outcomes.

Audience for Document

Beyond use for measurable assessment and program improvement, these learning outcomes will be in the College Catalogs. When students see the learning outcomes, they should recognize what Palmer focuses on and what sets Palmer apart from other chiropractic colleges.

Tasks and Timeline

A Task and Timeline Table was completed to guide the committee in the next steps.

Action	Who responsible?	Timeline
Palmer Abilities narratives	Percuoco – generate drafts Team review and edit	Percuoco – 2 weeks Team – 2 weeks (by December 15, 2004)
Executive review and support	Doug, Jean –PCC & PCCF (President's Cabinet) Doug and Tom – PCCW meet with President Martin	January 1, 2005
Marketing program launch of Palmer Abilities	Percuoco, Hoyle, Murray, Souza, Marchiori, Niles, PCUS Marketing Department	February 28, 2005
Organize faculty for assessment • Develop Learning Outcomes Council (PCC, PCCW) • Student Assessment Committee (PCCF)	• PCC Learning Outcomes Council – Percuoco • PCCW Learning Outcomes Council – Henninger • PCCF Student Assessment Committee – Asst. Dean of assessment and Learning Effectiveness	December 15, 2004
• Begin process to flesh out intended learning outcomes in the following order: 1. Integrating Basic Science into the Practice of Chiropractic 2. Patient Evaluation Skills 3. Patient Management Skills 4. Business Management 5. Social and Community Context of Health Care 6. Critical Thinking and Problem Solving 7. Philosophy and History of Chiropractic 8. Effective Communication 9. Professional Growth/Lifelong Learning 10. Moral Reasoning and Professional Ethics • Develop "Integrating Basic Science into the Practice of Chiropractic" to implementation phase of assessment	• Consensus process for each Palmer Ability conducted by faculty groups on each campus chaired by campus overseer of assessment. ✓ PCC Learning Outcomes Council - Percuoco ✓ PCCW Learning Outcomes Council – Henninger ✓ Student Assessment Committee - Niles	Start consensus process January 2005 – finish by April 2005 March 2005 (begin pilot implementation of the first Palmer ability.

• Learning Outcomes Council training: Mary Allen text: Assessing Academic Programs in Higher Education Nichols Text: The Departmental Guide and Record Book for Student Assessment and Institutional Effectiveness	• PCC Learning Outcomes Council - Percuoco • PCCW Learning Outcomes Council – Henninger • Student Assessment Committee - Niles	November 2004 - ongoing

The outcome Integrating Basic Science into the Practice of Chiropractic will be the first to be measured. The individuals in the committee will flesh out the measures from the ability. The results will be discussed during a conference call in February, 2005. The implementation of this ability will begin while the other measures are being agreed upon. The order of outcome implementation is as follows:

1. Integrating Basic Science into the Practice of Chiropractic
2. Patient Evaluation Skills
3. Patient Management Skills
4. Business Management Skills
5. Social and Community Context of Health Care
6. Critical Thinking and Problem Solving
7. Philosophy and History of Chiropractic
8. Effective Communication
9. Professional Growth/ Lifelong Learning
10. Moral Reasoning and Professional Ethics

Curriculum Meeting Discussion

In preparation for the Curriculum Meeting in January 2005 in Florida, the three campuses will map out their curriculum content according to the NCBE test outline on a spreadsheet template. This will allow the curriculum to be cross compared and facilitate a response to the CCE as to the congruence of the coursework system-wide.

Resources:
Several handouts were distributed via e-mail before the meeting or at the meeting to prepare the committee to discuss the topic and provide examples of program assessment.

These handouts included:
CCE Standards for Doctor of Chiropractic Programs and Requirements for Institutional Status, January 2004
An Educational Blueprint for the Brown Medical School
Brown Medical School Nine Abilities
Palmer College of Chiropractic Competencies for the Chiropractic Graduate, Draft August1998
Five Models of Outcomes-Based Approaches
Center for the Advancement of Pharmaceutical Education, Educational Outcomes 2004

Outcomes (Competency) Based Curriculum Assessment Western Virginia Curriculum Committee
Palmer Key Abilities Task Force Consensus PCC
Palmer Key Abilities Task Force Consensus PCCF
Alverno's Ability Based Curriculum
School of Pharmacy at the University of Mississippi General Education Abilities
Nursing Program Competency-based Curriculum Outcomes for all Educational Programs
Program-Level Student Learning Goals, College of Nursing and Health Sciences, George Mason University Office of Institutional Assessment
Palmer Abilities Three Campus Consensus
The Department Guide and Record Book for Student Outcomes Assessment and Institutional Effectiveness, Figures, Nichols and Nichols
Nursing Program Assessment Plan 2002-2003, E. Hasley
Graduate Program Assessment Plan, Department of Nursing, University of Michigan
Wisconsin Indianhead Technical College Program Outcomes/Assessment Plan 2002-2003

2.III.H. Clinical Education

1. **Core Clinical Training Curriculum Design**
2. **Supplemental Clinical Training Programs and Associated Facilities**
3. **Student Assessment and Evaluation**
4. **Quality Patient Care**
5. **Clinical Competencies**

Because the PCCF outpatient clinic was not operational at the time of the visit and the team could not provide information about the clinical education program, quality assurance or the student's achievement of clinic requirements, the COA is particularly interested in the clinical education program including compliance with those standards found in Section 2.III.H. (1-5) of the January 2004 Standards. The COA requires an update on PCCF's compliance with the clinical education standards including the assessment of clinical competencies and how clinical competency assessment is tied to program planning, goals and objectives.

RESPONSE:

Core Clinical Training Curriculum Design

The Clinical Mastery Curriculum is designed to include an experiential learning process threaded throughout the entire curriculum. Within the pre-intern phase of the curriculum (Quarters 1 – 9), students spend 288 instructional hours (24 credit hours) in the clinical setting observing and assisting interns and faculty clinicians with patient care. Through experiential learning in the clinical setting, students have the opportunity to apply knowledge, develop the appropriate affect, and practice skills prior to being assigned responsibilities for patient care.

During the Internship phase of the curriculum (Quarters 10 – 12), students spend 900 instructional hours in the clinical setting providing patient care under the direct supervision of faculty clinicians. An additional 188 instructional hours (15 credit hours) are accumulated participating in asynchronous threaded discussion of clinical cases, simulated clinical scenarios, and clinical research assignments. It is during the internship phase of the curriculum when each student intern is required to complete various quantitative requirements.

Curriculum Design for the Pre-Intern Phase (Quarter 1 – 9):

The curriculum of clinical skills development in the clinical education process develops in an integrated manner with the psychomotor skills that are being presented in the Care track.

In the first quarter, students are provided with an introduction to concepts and terms related to clinical skills and chiropractic care in particular.

In the second quarter, the skills of static and motion palpation, orthopedic exam procedures, cervical and thoracic adjustment set-ups, and instrumentation skills are presented. Additionally, the curriculum introduces the student to the process of proper documentation of clinical records.

In the third quarter, the curriculum in skill development progresses to upper cervical technique set-ups, the neurological examination, and additional instrumentation assessment tools are introduced. The application of knowledge of record keeping requires the student to scribe SOAP notes for student patient care provided by student interns under the supervision of faculty clinicians.

The fourth quarter curriculum addresses chiropractic technique set-ups for the lumbar spine, sacrum and pelvis. Additionally, the visceral examination of the abdomen is presented. The application of knowledge of record keeping requires the student to scribe physical exams as well as SOAP notes for student patient care provided by student interns under the supervision of faculty clinicians.

Curricular content for the fifth quarter provides a review of full spine chiropractic techniques, and the student begins administering chiropractic adjustments in a controlled, supervised laboratory setting on fellow students. In order to receive an adjustment in the laboratory setting, the student receiving the adjustment must be free of any specific chief complaint and has signed consent to participate in the process of adjusting for the purpose of skill development. Additionally, in the fifth quarter curriculum provides instruction in emergency care procedures. It is required of the fifth quarter curriculum for the student to obtain American Heart Association training certification in CPR for the Health Care Provider, and basic first aid training.

The sixth quarter curriculum for skill development introduces extremity adjusting and reviews upper cervical techniques. Students continue to practice adjusting in a laboratory setting with a focus on upper cervical technique. Concept related to diagnostic studies including diagnostic imaging and clinical laboratory exams are introduced. Additionally, skills in the comprehensive physical examination are addressed.

The seventh quarter curriculum for skill development in the clinical setting continues to develop adjusting skills in the laboratory setting focusing on modifications to the adjustment thrust for special populations, and develops physical examination skills to address the focused evaluation of a patient's chief complaint. Clinical laboratory analysis is applied to musculoskeletal conditions. Additionally, skills in active care procedures are presented.

In the eighth quarter curriculum, x-ray positioning skills are developed. Knowledge and skill development in passive care modalities for physiotherapy are included. Additionally, in the eighth and ninth quarter, students begin to participate in the outpatient clinic facilities in assisting with patient care, as skill development continues.

Through observation, skill development labs, assisting with live patients, as well as simulated computer-based and paper-based case studies, the pre-intern phase of clinical education, the student develops competencies in the attitudes, knowledge and skills required for:

- History Taking
- Physical Examination
- Neuromusculoskeletal Examination
- Diagnostic Studies
- Diagnosis
- Chiropractic adjustment
- Emergency Care
- Record Keeping
- The Doctor-Patient Relationship

Curriculum Design for the Internship (Quarters 10 – 12):

During the internship phase of the curriculum, student interns integrate and synthesize knowledge, attitudes and skills in clinical competencies by providing patient care in the Palmer Florida Clinics. To ensure that the highest quality of patient care is provided, all patient care is directly supervised by faculty clinicians.

The faculty clinicians are responsible for assigning patient care responsibilities to student interns. As student interns provide patient care, faculty clinicians assess the student intern and complete a qualitative evaluation to assess the student intern's developing skills. Each student intern is assigned to a supervising faculty clinician during each of the three quarters of the clinical internship.

The curriculum of the internship progresses through three courses including Clinic I, Clinic II, and Clinic III. Curricular requirements for each course include the completion of a minimum number of quantitative clinical requirements. However, a maximum number of quantitative clinical requirements can be applied toward graduation requirements in each course.

Completion of Clinic III requires that the cumulative total of quantitative clinical requirements obtained during the student's internship including:

- A history on 25 different patients (a minimum of 16 must be on non-student patients)

- An examination on 25 different patients (a minimum of 16 must be on non-student patients). Each examination must include, at the minimum, vital signs, orthopedic and neurological testing. Additional examination procedures may be

assigned as clinical relevance is determined by the responsible faculty clinician and student intern.

- A written interpretive report of 25 urinalysis, 20 hematology studies such as blood counts, and 10 clinical chemistry, microbiology or immunology studies or profiles on human blood and/or other body fluids.

- A written interpretive report of 30 radiographic views. Each report must include an evaluation for the technical components of the study as well as the interpretive component.

- 250 patient treatments (visits) including patient evaluation, chiropractic adjustment and patient evaluation, at least 200 of which must be spinal adjustments, provided during 250 separate encounters. 200 patient treatments must be on non-student patients. A minimum of 30 patient treatments must also include the application of physiotherapy procedures.

- Evaluation and management of 10 cases involving complex clinical thinking and clinical reasoning (a minimum of 8 cases must be non-student patients).

- Participation in the evaluation and management of 10 computer-based patient simulations involving complex clinical thinking and clinical reasoning.

Student interns are not allowed to provide care to their immediate family members, including their spouse, parents, or children. Care for family members of student interns is assigned by the responsible faculty clinician.

In Clinic I, II, and III, the student must complete a minimum of 40 patient treatments directly observed and assessed by a faculty clinician in each course. In Clinic I and II, the patient evaluation and chiropractic adjustments provided by the student intern must utilize the Palmer Package protocols. In Clinic I and II, a maximum of 150 patient treatments will be applied toward the quantitative clinical graduation requirements.

In Clinic III, student interns may utilize approved non-Palmer Package chiropractic techniques. The student intern has received certification by the college to be approved for the use of a non-Palmer Package technique. Certification of the student intern requires successful completion of an elective technique course in the Palmer Florida curriculum.

In Clinic I, II and III, the student intern must complete a minimum of 5 case histories, and 5 patient examinations during each course.

Faculty clinicians assess the progressive development of the student intern's clinical skills in the following clinical competencies throughout the course of the internship phase of the curriculum:

- History taking

- Physical examination
- Neuromusculosketal examination
- Psychosocial assessment
- Diagnostic studies
- Diagnosis
- Case Management
- Chiropractic adjustments
- Case follow-up and Review
- Record Keeping
- Doctor-Patient Relationships

Practice Development Quarter (Quarter 13):

In the 13th Quarter, the student extern contracts with the faculty clinician for a capstone clinical experience referred to as the Practice Development Quarter. This capstone experience can include an off-campus preceptorship with a field doctor approved by the college. Additional opportunities for the Practice Development Quarter include pre-residencies in radiology or pediatrics, clinical research assistantship, and clinical teaching assistantship.

Quality Assurance System:

In order to assure quality patient care, all care provided to patients is directed by the responsible faculty clinician known as the "clinician of record." The clinician of record is responsible for monitoring the case management plan, and reassessing the patient at specified intervals, not to exceed 12 patient treatments.

During the process of reassessment, standard outcome measures are utilized by the student intern and faculty clinician to measure the patient outcomes. The outcome measurements are used in the assessment of the appropriateness, necessity, and quality of care being provided to the patient.

All patient files are subject to quality assurance (QA) review. The QA review of patient files is performed by members of the Clinic Management Committee under the direction and supervision of the Executive Director of Clinical Services. The QA review ensures that all appropriate patient records and documentation is included in the patient file, and that all clinical documentation is provided in an appropriate, coherent, and legible manner.

Ambuqual is the software system used for quality assurance. The *Ambuqual system* has a faculty clinician assigned to the duties and responsibilities of the Quality Assurance Coordinator. The Quality Assurance Coordinator manages clinical data tracked by the *Ambuqual system*, and provides a quarterly report to the Clinic Management Committee.

The Clinic Management Committee reviews the QA report and advises the Executive Director of Clinical Services on methods for improving effectiveness within the clinic system.

Each patient is provided with a written statement of patients' rights during their initial visit. The patients' rights are provided to the students, faculty and staff through the Pre-Intern and Student Intern Clinic Handbooks.

A Clinical Quality Assurance Manual is maintained by the Clinic Staff Manager and the Quality Assurance Coordinator, under the supervision of the Executive Director of Clinical Services. The Clinical Quality Assurance Manual contains written policies and procedures including:

- Safe use of ionizing radiation
- Federal, regional, state and local requirements for infection and biohazard control and disposal of hazardous waste.
- Federal, regional, state and local requirements regarding the confidentiality of patient information.
- Professional and legal requirements inherent in the responsibilities of a licensed doctor of chiropractic.

To ensure the safety of patients in the Palmer Florida clinical settings, all student interns and supervising faculty involved in patient care are certified in CPR for the Health Care Provider by the American Heart Association, and Basic First Aid.

Additionally, all students, staff and faculty involved with the handling of patient records, receive annual training in clinical safety standards, and HIPAA regulations.

2.III.I. Research and Other Scholarly Activity

3. Inputs

The DCP must provide appropriate financial, faculty, physical, and administrative resources for the conduct of research and scholarly activities.

RESPONSE:

In response to the COA/CCE's stated concern over PCCF's compliance with Standard 2.III.I (Research and Other Scholarly Activity), Paragraph 3. (Inputs), PCC submitted specific plans to increase its financial, faculty, physical and administrative support for research and scholarly activity on the PCCF campus (PCC Response to the *Final Report of a Focused Site Visit to Palmer College of Chiropractic Florida, May 17-19, 2004,* p. 45-49). In its letter dated July 27, 2004, the COA requests an update on the implementation of these plans. As of the date of this report, PCCF has updated those plans and taken several significant steps toward implementation of these plans, including the following:

- Don Dishman, D.C., M.Sc., D.I.B.C.N., a member of the PCCF faculty, has accepted the position of Interim Director of Research while the formal search for the position is underway. This represents approximately $7,300 of the minimum FTE compensation of $10,000 budgeted for FY 04/05 in the original plan. The balance will be available to support faculty research project release time. Dr. Dishman will work with Dr. Gloria Niles, who is the current appointed on-site Research Coordinator, along with Dr. William Meeker, PCUS Vice President for Research at the Palmer Center for Chiropractic Research (PCCR) in Davenport, to complete the implementation of the current plan for research development at PCCF.

- The faculty at PCCF has been given direct access to the PCCR research policies, procedures, forms, instruments and protocols through the PCCR webpage on the PCUS intranet.

- For FY 04/05, PCCF has been allocated a $10,000 research budget for the purchase of equipment and supplies, and to fund seed/pilot projects the faculty propose.

- The annual faculty FTE has been adjusted from 60 hours of instruction to 54 hours of instruction, 3 hours for committee work and 3 hours of research/scholarly activities for all PCCF faculty members.

- New faculty hires have been made utilizing criteria that include strong consideration for faculty research leadership potential. Recent hires, scheduled to begin employment January 3, 2005, include:
  - Ronnie Sciotti, PhD
  - David Skyba, DC, PhD (abd)
  - Chutima Phongphua, MD, DC, MPH

- A current faculty member, David Seaman, DC, with an established research publication record, has been identified as another potential faculty research leader.

- Specific space in the Allen Green Center has been designated as research facilities and appropriate signage has been installed. The two rectangular rooms, one with 480 ft^2 and the other with 534 ft^2 of floor space, are easily configurable to a variety of research environments, and include access to an enclosed closet, potentially available for secure research records storage, and a restroom, which will facilitate their utility for clinical research projects. Their usefulness is further enhanced by their location in the Allen Green Center, which is currently functioning as the on-site out-patient clinic for the PCCF campus. These spaces will be configured as the Senior Campus Administrator and the Vice President of Research deem most advantageous for the type and scope of research projects the faculty endeavors to pursue.

All of these steps are part of the ongoing process PCUS has initiated to enhance and promote an appropriate level of active research and scientific scholarship on the part of the PCCF faculty. University support for faculty research, along with the inquiry-driven instructional curriculum at PCCF, also strongly encourage the development of interest and participation in a lifelong learning/research-based approach to the clinical practice of chiropractic among PCCF students and graduates.

The PCCF Research Resource Development Plan Update is provided in the following:

Palmer Florida Research Plans
October 28, 2004
Revised November 19, 2004

The following are specific tasks 1 through 8 to be accomplished in the near-term.

1) Appoint a research officer: An interim part-time position with a title to be determined was created. That person has day-to-day responsibility and authority to pursue a number of short-term and long term research objectives. The position was discussed with one faculty member at Florida who has accepted it.
Target Date for decision: November 22. Completed.
Responsibility: Meeker, Niles

2) Reinvigorate the Palmer Florida Research Council: Schedule and hold meetings with a record of the proceedings. While the Research Council has met several times already and provided valuable feedback, the Council needs to be put on a regular schedule.
Target Date for scheduling the Council: January 15.
Responsibility: TBD research officer, Niles, Meeker

3) Identify physical space for research, provide signage, equip it: Two empty rooms with approximately 500 sq ft each have been identified in the Allen Green Center. One has a closet and one has a restroom. As originally planned, discussions are underway

between Dr. Don Dishman, faculty member formerly with New York Chiropractic College, and administrators at NYCC concerning the shipping of laboratory equipment to Palmer Florida. The equipment would be used by Dr. Dishman to continue his neurophysiological studies, one of which is funded by Palmer's Consortial Center for Chiropractic Research. Discussions have also taken place with the Director of Clinics at Florida to designate space for patient-oriented clinical research. Furniture, computer and other room needs (such as space dividers) are still to be determined.
Target Date for equipping the research laboratories: January 10.
Responsibility: TBD research officer, Dishman, Niles, Lee, Meeker

4) Schedule research skills seminars to be given at Florida: As planned as a result of the original needs assessment, Faculty from PCCR Davenport will deliver at least five 6-12 hour seminars to be delivered on a Friday and/or Saturday targeting interested faculty and students at Florida. The seminars will cover: Basic Research Design and Statistics; Scientific Writing; Bioethics and the IRB Process (including NIH human subjects certification); Critical Appraisal of Scientific Literature; and Research Proposal Development. The first seminar will occur in January, and monthly thereafter. The first seminar will be delivered by Dana Lawrence, former editor of the Journal of Manipulative and Physiological Therapeutics, focusing on scientific writing and critical appraisal. It will take place all day Friday, January 7. All faculty will be required to attend.
Target Date for initial seminar. January 7, 2005.
Responsibility: Meeker, TBD research officer, PCCR faculty

5) Explore how to transform the students' research club into actual projects: The needs assessment indicated significant student interest in research and a research club was initiated by a faculty member at Florida. Additional work needs to be done to determine how the club's interests can be enhanced through specific projects.
Target Date for evaluating potential: March, 2005 .
Responsibility: TBD research officer, Niles, Meeker, Florida faculty

6) Identify faculty to attend ACC-RAC: The Research Agenda Conference, March 17-19, 2005, Las Vegas, provides research training and exposure to the latest chiropractic research. Five Florida faculty will be able to attend with financial assistance from the HRSA contract. Each travel stipend will be $650. Additional travel costs will need to be reimbursed by Florida or PCCR – to be discussed.
Target Date for determining attendees: January 15.
Responsibility: Niles, TBD research officer, Meeker

7) Collect and maintain list of Florida faculty and staff research projects, presentations and publications: The list will be published on a regular basis.
Target Date for assembling updated list: December 30.
Responsibility: Niles, TBD research officer, Meeker

8) Send memo to faculty regarding the availability of internal project funds: Drs. Niles and Meeker have agreed to provide funds from the Florida and PCCR budgets that

will be made available for appropriately proposed and approved research projects. Each project will be limited to $2,500. The process for proposal development is already available on the Research page of the Center for Teaching and Learning website, and will be reviewed for faculty in seminars and Research Council meetings at Florida.
Target Date for sending memo: December 15.
Responsibility: Niles, Meeker, TBD research officer

Palmer Center for Chiropractic Research Resources for Research at Florida

As Palmer pursues the plan outlined above, it may be helpful to keep in mind the significant research infrastructure and other resources that do not require development in Florida, nor the investment of additional funds. These are extended to Florida from PCCR as provided below:

1) **Research administration**, including planning, programmatic development, and project management.

2) **Technical expertise** in biomechanics, neuroscience, health services research, survey research, clinical trials and outcomes research, histology, microscopy, biostatistics, clinical epidemiology, bioethics, scientific writing, and grant writing.

3) **The institutional review board (IRB):** The Florida campus does not need to create and maintain an IRB for human subject ethical approvals, run meetings on a monthly basis, or maintain status with the Federal Office of Research Protection. In a similar fashion, PCCR at Davenport maintains the Animal Care and Use Committee (ACUC).

4) **PCCR's Office of Data Management (ODM):** The ODM is a unique entity in chiropractic institutions. It provides standardized processes and professional personnel to design forms, collect, and maintain research data for all types of research projects, thus alleviating Principal Investigators and Project Directors from a major and often challenging task. The ODM has developed sophisticated web-based database entry and report systems that can be used from remote sites with Internet access.

Finally, as an outcome it should be noted that two PCCF faculty, Medhat Alattar and Don Dishman have had presentations/posters accepted for ACC-RAC in March, 2005.

2.III.J. Service

1. Purpose Statement

The DCP must establish objectives for and provide service activities, beyond the chiropractic services to patients required of all interns that support its mission and goals.

The COA is concerned that PCCF has not established objectives for the provision of service activities. PCCF must provide evidence that it has established and actively working toward the achievement of such objectives.

RESPONSE:

At the October 2004 meeting of the Palmer Chiropractic University System Board of Trustees the following report was provided to the Board:

"The Council on Chiropractic Education has developed standards pertaining to service that they expect every chiropractic college in the United States to adopt in some fashion. Given that these standards exist and that Palmer has been placed on notice at Palmer Florida that there is an expectation that Service as a concept and as planned activities will take place through an organized forum, the Accreditation and Licensure Committee at PCUS has taken a stance that a statement of goals and objectives must be adopted.

The CCE Standards pertaining to service are as follows:

J. Service
1. Purpose Statement
The DCP must establish objectives for and provide service activities, beyond the chiropractic services to patients required of all interns that support its mission and goals.

2. Policies/Procedures
The DCP must have and follow written policies regarding the provision of services.

3. Inputs
The DCP must provide appropriate financial, faculty, physical and administrative resources for the conduct of services.

4. Outcomes
The DCP must compile evidence regarding the extent to which service outcomes meet the stated service objectives.

Obviously, before we can state to the Commission on Accreditation that Palmer is committed to Service Activities, we must structure this endeavor in such a way so that it is organized and guides our service efforts. The problem has not been in the past one of not being committed to service. There are numerous and significant service activities

occurring daily throughout Palmer. The need is one of structuring out those efforts so that they fit into a process.

The Accreditation and Licensure Committee has produced the following statement:

The Palmer Colleges are committed to providing service flowing from the University System to accepting areas of need. Palmer is further committed as an institution of higher education to providing service to the local community within which its stakeholders work and live as well as providing service beyond that community to the professional community which it represents. In keeping with this commitment, the following goals are established to assist in guiding Palmer's Service Activities:

Goal 1: To serve the communities in which Palmer employees and students live and work, *through health care delivery, community education and service oriented projects*

Objectives:

A. Provide underserved patient populations access to low-cost or free chiropractic care
B. Provide education to the community regarding principles of wellness including chiropractic care
C. Participate in service activities that benefit the community beyond the chiropractic services to patients

Goal 2: To continue the Palmer tradition of service to the chiropractic profession, *through continuing education, clinical services, and scholarly activity*

Objectives:

A. Make available continuing and post-graduate educational seminars and programs to encourage and enhance professional learning for practicing doctors of chiropractic
B. Strive for excellence in patient care within the clinic system so that the clinics can serve as a resource and referral center for field practitioners
C. Publish research on chiropractic that is accessible to the profession through peer-reviewed journals

Goal 3: Cultivate service activities at each Palmer College through the provision of personnel and financial resources spent on specific service endeavors that enhance the qualities of life within the communities where we work and live.

Objectives:

A. Provide human resources for promoting involvements in service activities locally as well as within the field of chiropractic
B. Provide financial resources for promoting involvements in service activities locally as well as within the field of chiropractic
C. Keep track of service involvements to which each Palmer College is committed."

At that Board meeting the Palmer Chiropractic University System shared the goals stated above and adopted unanimously those goals as Palmer's position on service. In addition, as service activities and outcomes the following activities are noted as characteristic of Palmer commitment to service:

PALMER COLLEGE OF CHIROPRACTIC FLORIDA

Community Service Efforts

- 2002 -

Port Orange/South Daytona Chamber of Commerce Leadership Program. Student Services Director, Heather Stierwalt, completed this 10-week program designed to educate future leaders about the opportunities and challenges facing our community.

Port Orange Family Days. Participated in major city showcase event on Oct. 3 and 4 by staffing a recruitment booth in the community expo and sponsoring fireworks for the community.
Staff Participants: Lisa Walden and Jenne Carlisi

Canned Food Drive. Class 054 gathered more than 200 pounds of food for Catholic Charities during a Canned Food Drive in November.

Santa Pictures & Bake Sale Raise Funds for Needy Children. Class 054 raised more than $200 for the Department of Family Services with these two fundraisers on Dec. 7.

PCCF Gives to Needy Families. Three needy families in Volusia County had a merrier Christmas, thanks to a gift-giving drive spearheaded by Class 054 students. Students, staff and faculty members donated more than 50 gifts for the families. The presents, delivered to the Department of Family Services on Dec. 20, included clothing, toys, videos and learning games.

Port Orange Christmas Parade. Palmer Florida staff and students introduced the famous Palmer Spine to Port Orange during its annual Christmas Parade on Dec. 8. Thousands of area residents lined the streets, breaking into big smiles and laughter as our walking spine approached. Many shouted out, "Welcome to Port Orange, Palmer!" and "You're the backbone of our community!"

Golf Outing to Benefit Youth. Palmer Florida donated $400 and participated as a Gold Sponsor in this December 2002 golf tournament, which was sponsored by the Greater Daytona Beach YMCA to raise scholarship money for less-fortunate children to attend YMCA programs.

Radio Talk Shows. Palmer Florida hosted "Chiropractic Today," a weekly radio talk show on WNDB (1150 AM) from 9 to 9:30 a.m. every Tuesday from Feb. 18 through May 13. Faculty, staff and students educated the public about the benefits of chiropractic and Palmer Florida's role in educating future chiropractors. Speakers were:

Donald Kern, D.C.	"The History of Chiropractic and Palmer College"
Gloria Niles, D.C.	"The Education of a Doctor of Chiropractic"
V.C. Ravikumar, Ph.D.	"The Faculty's Role in the Mastery Curriculum"
David Seaman, D.C.	"Chiropractic Care for Improved Golf Performance"
Maxine McMullen, D.C.	"Chiropractic Care for Children"
Dr. Guy Riekeman	"What is a Subluxation?"
Jenne and Roy Carlisi	"How to Become a Palmer Chiropractic Student"
William Sherrier, D.C.	"Chiropractic Success Stories"
H. Dennis Harrison, D.C.	"Palmer Chiropractic Outreach Program"
Medhat Alattar, D.C.	"The Global Perspective of Chiropractic"
Heather Stierwalt	"Palmer Florida Students: Their Impact on Volusia County"
Timothy Gross, D.C.	"Palmer Chiropractic Clinics"
Donald Kern, D.C.	"The Future of Chiropractic"

Clinic Abroad. Academic Dean Gloria Niles, D.C., spent two weeks on the Caribbean islands of Bequia and St.Vincent in March as part of Palmer's Clinic Abroad Program. She and Shayan Sheybani, D.C., of the Palmer College Main Clinic, accompanied10 Davenport student interns to the islands, where they provided chiropractic care to residents in need.

Outreach Program. The Campus Health Center provides free chiropractic care to needy and homeless people at the Serenity House in Daytona Beach on Wednesdays and Fridays.

ACS Relay for Life. Palmer Florida's 11-member team raised $1,195 for the American Cancer Society during the Relay for Life, held at the Port Orange City Center on March 14 and 15. Palmer Florida's team was one of 15 organizations participating in the event, which was held in Port Orange for the first time ever.

Personal Economics Class. Heather Stierwalt, director of Student Services and Financial Planning, instructed a 10th-grade class in Personal Economics at Atlantic High School. As a Junior Achievement and Chamber of Commerce volunteer, she taught the students about economic issues such as identifying skills and career interests, interpreting employment ads, completing job applications, building a resume, interviewing for a job, personal budgeting, check writing, credit and credit ratings, and the stock market.

Port Orange YMCA Board of Directors. Heather Stierwalt, director of Student Services and Financial Planning, was named to the Board of Directors for the Port Orange YMCA in April 2003.

Blood Drives Net 30 Units. Two campus blood drives organized by Palmer Florida students resulted in 30 units for the Central Florida Blood Bank.

Halifax River Clean-Up. Palmer Florida's 14-member team picked up 700 pounds of trash during the Halifax River Clean-up on April 26. Our team was part of a countywide effort to keep the Halifax River alive and beautiful.

Race for the Cure. Third-quarter student, Amber Plante, formed a nine-member Palmer Florida team to participate in the Susan G. Komen Race for the Cure on Saturday, May 10, at Daytona International Speedway. The race provides money to help fund breast cancer research, education, screening and treatment.

Memorial Day Patriotic Event. Three faculty and staff members volunteered to pass out programs and greet guests at the City of Port Orange's "Red, White, Blue and You" patriotic event on May 24.

Chamber of Commerce. Communications Manager Pat Kuehn completed the 10-week Port Orange-South Daytona Chamber of Commerce program designed to educate future leaders about the opportunities and challenges facing our community.

Chamber of Commerce. Pat Kuehn was named an ambassador of the Chamber of Commerce. As such she welcomes new members and represents the Chamber at official functions.

Sports Chiropractic Club. Faculty clinicians, assisted by members of the Sports Chiropractic Club, provide chiropractic care to student athletes of Atlantic High School and educate the athletes on the natural approach to chiropractic health care. The PCCF students, all of whom are certified in first aid and CPR, assist the athletic trainer with on-field management of injuries and observe chiropractic care as it relates to athletic injuries.

Port Orange Family Days. PCCF has been a major sponsor of this family event, held every October, for two years in a row. In 2003, the Palmer Chiropractic Clinics participated in the YMCA Health Fair, providing information about chiropractic and the Palmer Chiropractic Clinics.

Salvation Army. Five students and one staff member helped the local Salvation Army serve turkey dinners to hundreds of homeless families and drug-dependent people on Thanksgiving Day.

Food Drives. The Student Council collected nearly 1,000 pounds of canned goods for the Family Emergency Food Bank at Catholic Charities Inc. during two holiday food drives.

Toys for Tots. The Clinical Services Department collected hundreds of toys for needy children through the U.S. Marine Corps Toys for Tots Program.

Radio Talk Show. Palmer Chiropractic Clinics sponsored "Healthy Tomorrows," a weekly radio talk show on WNDB, from Nov. 3 through Jan. 19. The program educated the public about chiropractic and promoted Palmer Florida's outreach and community clinics.

- 2004 -

Port Orange-South Daytona Chamber of Commerce. Palmer Florida supported the Port Orange-South Daytona Chamber of Commerce through the following activities:

- Heather Stierwalt, director of Student Services and Financial Planning, was elected to a three-year term on the Board of Directors.
- Dawn Funk, student activities coordinator, completed the chamber's 10-week Leadership Program, which educates leaders about the challenges and opportunities facing the community.
- Pat Kuehn, communications manager, is a member of the chamber's Ambassadors Committee, which welcomes new members and represents the chamber at area ribbon-cuttings and other official functions.

Daytona Beach Chamber of Commerce. Palmer Florida joined the Daytona Beach Chamber of Commerce, which represents more than 1,400 businesses in Volusia County.

- The College also joined the chamber's Business Development Partnership, which includes local business and educational institutions working with local cities and Volusia County in a united effort to attract new businesses, thus new jobs and residents, to the area. Academic Dean Gloria Dean, D.C., and Communications Manager Pat Kuehn serve in the BDP's Educational Partners division.

Port Orange YMCA. Palmer Florida sponsored and participated in the following YMCA events:

- **Healthy Heart Run.** Palmer Florida sponsored the Port Orange YMCA's Healthy Heart 5K Run and Walk ($1,500) on Feb. 7, raising money for underprivileged children to participate in YMCA programs. Palmer Florida, a major sponsor of this inaugural event, provided seven runners and more than 20 volunteers for the run. Student Services Director, Heather Stierwalt, co-chaired the event, and staff members, Barb Higel and Dawn Funk, served on the race committee.
- **Aikido Classes.** Student William Pena teaches Aikido classes at the YMCA every Saturday morning. Aikido, which is based on balance and harmony, is a Japanese martial art that focuses awareness, stress relief and improved fitness.
- **YMCA Golf Tournament.** Marketing and Clinical Services sponsored a putting challenge ($500) and foursome ($500) at the third-annual YMCA Partners with Youth Golf Tournament on May 8. Communications Manager Pat Kuehn and Student Services Director Heather Stierwalt served on the committee.

Radio Talk Show. The Clinical Services Department sponsored "Healthy Tomorrows," a radio talk show on WNDB, from 9:30 to 10 a.m. every Monday through May. Dr. Ralph Davis, executive director of Clinical Services, hosted the weekly program, which

educated the public about chiropractic and promoted PCCF's community outreach and outpatient clinics.

Health Fairs. Students and faculty clinicians from Palmer Chiropractic Clinics provided posture screenings and offered chiropractic information at the following community events:

- Holly Hill Health Fair, March 19
- Volusia Mall Crawl/Wellness and Recreation Expo, April 3
- DBCC Health & Fitness & Water Safety Day, April 24
- Kid Fun Fest, May 1
- Children's Expo, Aug. 21 and 22
- Florida Lifestyle Fair, Sept. 17 through 19
- Port Orange Family Days, Oct. 2 and 3

Youth Sports Sponsorships. The Clinical Services Department sponsored three youth athletic teams through the Port Orange Recreation Department.

Outreach Clinic. PCCF operates an Outreach Clinic at Serenity House, providing free chiropractic care and lifestyle counseling to adults suffering from substance-abuse problems. A new outreach clinic is scheduled to open at 955 Orange Ave., Daytona Beach, in October 2004.

Sports Chiropractic Club. Faculty clinicians, assisted by members of the Sports Chiropractic Club, provide chiropractic care to student athletes of Atlantic High School and educate the athletes on the natural approach to chiropractic health care. The PCCF students, all of whom are certified in first aid and CPR, assist the athletic trainer with on-field management of injuries and observe chiropractic care as it relates to athletic injuries.

Lobbying Efforts. Four members of SACA attended the National Chiropractic Legislative Conference from March 3 through 6, lobbying congressmen to ensure further progress within the chiropractic profession.

Lakeside Jazz Festival. Palmer Florida was a major sponsor ($1,000) of the Lakeside Jazz Festival, which was held at the Port Orange Amphitheater on March 19 and 20 to provide summer-camp scholarships to area music students.

Halifax River Cleanup. Nine members of the Palmer Florida community took part in the Halifax River Cleanup on April 3, picking up 640 pounds of trash from the Port Orange Causeway Park. The crew rid the park of beer bottles, soda cans, cigarette butts, fishing line and drug paraphernalia, making it a cleaner and safer place for residents to fish and play.

Blood Drive. Thirty-two students, staff and faculty members gave the gift of life during two Palmer Florida blood drives, which were coordinated by student Rick Jacobs and the Student Services Department.

Charity Golf Tournament. Palmer Florida was a major sponsor ($500) of the Charity Golf Tournament, held on May 2 at the LPGA Champions Course in Daytona Beach. The tournament was organized by the Flagler-Volusia Chiropractic Society and the Daytona Beach Postal Workers to benefit local charities including Family Renew Community, which provides housing and support services to homeless families with children.

Port Orange Vision Committee. Communications Manager Pat Kuehn represented Palmer Florida on a 62-member committee that updated the City of Port Orange's Vision Statement. The committee, which met from March through May, identified key issues for the next decade, including the redevelopment of Ridgewood Avenue, the continued provision of an adequate water supply, controlling growth, attracting new industries, and maintaining the city's small-town atmosphere.

Florida Public Relations Association. Communications Manager Pat Kuehn was elected secretary of the Volusia/Flagler Chapter.

Charity Golf Tournament. Palmer Florida was a major sponsor ($500) of the Charity Golf Tournament on May 2. The tournament, presented by the Flagler-Volusia Chiropractic Society and the Daytona Beach Postal Workers, benefited local charities.

Catholic Charities Food Drive. A group of students, led by Christian Grause, retrieved food items gathered by postal workers and delivered them to Catholic Charities on May 8.

Port Orange Family Days. Palmer Florida's Marketing Department is a silver sponsor ($2,500) of Port Orange Family Days, which will be held on Oct. 2 and 3. Tens of thousands of area residents are expected to attend this popular annual event. The Clinical Services Department will provide free spinal screenings and chiropractic information.

The COA requests a Progress Report on the activities taken to strengthen the PCCF program and the implementation of the Mastery Curriculum.

RESPONSE:

The following are specific activities that have been taken to strengthen the PCCF program and implementation of the program:

Faculty Hiring Efforts

- Faculty hiring efforts were increased beginning in May 2004. Between May 2004 and November 2004, 89 applications for faculty positions have been received and reviewed.

- 26 faculty candidates have been hosted on-campus for a two-day interview process.

- As a result of interviews in October and December 2004, 5 new faculty members have been hired to begin work in January 2005 and offers are in process to 4 additional faculty candidates.

Faculty Involvement in Curriculum Development

- A Curriculum Management Committee was appointed and has been operational since July 2004. The majority the membership of this committee consists of PCCF Faculty.

- A Student Assessment Committee was appointed and has been operational since July 2004. The majority of the membership of this committee consist of PCCF Faculty.

- A Clinic Management Committee was appointed and has been operational since July 2004. The majority of the membership of this committee consists of PCCF Faculty.

- An Academic Technology Committee was appointed and has been operational since July 2004. The majority of the membership of this committee consists of faculty members.

- Two Faculty Institute Days were held in which all faculty participated in the process of curriculum implementation activities.

Faculty Involvement in Student Assessment Plan

- All faculty participated in the development of the Comprehensive Clinical Competency Exam by submitting questions for the summative examination and

case scenarios for the practical examination and the diagnostic imaging examination.

- Faculty collectively participate as examiners in the integrated practical examinations for quarters 1 – 7.

- Faculty meet at the beginning of each quarter to review the quarterly integrated practical examination assessment tools.

Professional Development of Faculty

- The Director of Level I instruction works with all faculty on a one on one basis to review course evaluations and course materials.

- When areas of deficiency are identified in a faculty member's performance, the Director of Level I Instruction works with the faculty member on a specific improvement plan.

- The Instructional Technologist has developed online training modules to assist faculty with training in software programs including ParScore, ParTest, and WebCT

Student Enrollment Management

A distinct process of managing student enrollments at Palmer Florida (actually throughout the PCUS) has been instituted so that Palmer can accommodate as many students as possible within the limitations of faculty, staff, and facilities.

Also, the COA has noted PCC's plans to reconsider timelines for the implementation of the Mastery Curriculum at its two other campuses based on outcomes and facility needs. The COA requests an update on the status of implementation of the Mastery Curriculum at PCCW and PCC in the December Progress Report.

RESPONSE:

The Palmer Chiropractic University System Board of Trustees has decided to continue to refrain from implementation of the Mastery Curriculum at PCC and PCCW. This is for several reasons. First, there is yet to be a single graduating cohort at PCCF. The curriculum is still being intricately refined even though most large changes to be made have already been made. As such, it is still premature to institute a curriculum at another Palmer College when that curriculum is still being refined. Second, the majority of students have yet to enter the clinical environment of the college and there is considerable assessment of those students to be conducted. It is the position of Palmer that it would do

little good to export a clinical experience to other Palmer Colleges when it has yet to be assessed.

Finally, Palmer has instituted a significant System-wide assessment effort of the curriculums at all three Palmer campuses. As part of that assessment process the curriculums are being examined as to what they have in common with each other (as mentioned in other reports, they have much more in common than not), how curriculum requirements and competencies are being assessed, and the strengths that might be able to be utilized from one campus to another. At the culmination of this process, an explicit commonality pertaining to curricular and programmatic assessment across the Palmer System will be an outcome that is continually utilized.

SUMMARY

At the point whereby the previous CCE site team visited the PCCF campus, there had been plans to have clinics functioning with students and patients participating in them. The plans had actually been developed so that the clinics were to have been functioning approximately four months prior to the team visit. Obviously that did not happen according to the planned timeline. Certain personnel were to have been hired at specific points in time in the past. And certainly all activities come to a halt when three hurricanes affect the functioning of a college. What all this concludes to is that even the best laid plans go awry under conditions whereby contingencies occur. However, one of the true measures of the college's abilities is to witness the degree to which it can adapt to plans that are not met (for whatever reasons) and regain its planned course of action. Given all of the planned initiatives that have occurred on time and in synchronicity with other college activities, certainly the college can be categorized as being where it needs to be in terms of providing the education of students, the college's primary mission.

It has been roughly six months since administrators and others associated with Palmer Florida appeared before the COA. In that time, significant measures have occurred as evidenced by the preceding written testimony. While some colleges might cease efforts once it is felt that CCE Standards have been minimally met, Palmer Florida, however, has its own agenda of functioning as a significant part of the premier chiropractic educational program in the world. Such efforts to become that will not stop until such a conclusion can be clearly drawn.

(2)

Palmer

Chiropractic University System

FYI

Date: June 14, 2005

To: LaVella Matthews
California Board of Chiropractic Examiners

From: Douglas E. Hoyle, Ph.D.
The Palmer Colleges of Chiropractic D. E. H.

Re: Approval of Palmer College of Chiropractic Florida

Ms. Matthews:

I am sending you this fax in hopes of obtaining several things. First, I would like to make sure that Palmer College of Chiropractic Florida is on your July 21, 2005 Board agenda. Just as we have always thought it important to have Palmer College (Davenport, IA) and Palmer West (San Jose, CA) approved so that their students could be accepted to sit for the CA licensing exam, we also note that same importance for Palmer Florida. I believe we have already submitted the appropriate curricular materials for your consideration.

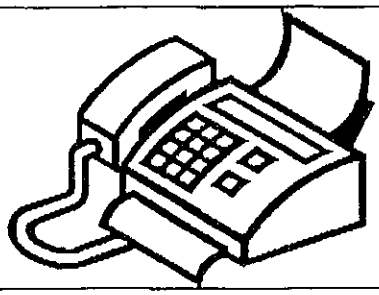
I would like to be present at the July 21 meeting in the event that there are questions or problems with our submission of materials. Could you please put me on your mailing list of notice of Board meetings.

Given our submission of materials for that approval, I have not heard back from anyone associated with the California Board as to whether our materials were ever received or not.

Finally, I do not know if Palmer College of Chiropractic or Palmer College of Chiropractic West are on your agenda to be approved at an upcoming meeting. I would just ask to know if you have everything for that approval process to proceed smoothly.

Thank you for your efforts on our behalf. We just want to make sure all of your requirements are acceptably met. Please feel free to contact me directly at 563-884-5512.

723 Brady Street, Davenport, Iowa 52803
www.palmer.edu 563-884-5500 / Fax: 563-884-5505



A facsimile from

Palmer College of Chiropractic
Douglas E. Hoyle, Ph.D.
Phone: 563-884-5512
Fax: 563-884-5505

To: LaVella Matthews
Fax: 916-263-5369

Date: 6/14/2005

(2 Pages including this one)

Regarding: Request to have Palmer College of Chiropractic Florida placed on the July 21, 2005 California Board Agenda

Comments:
Ms. Matthews, please see the attached memo. Thanks

BOARD OF CHIROPRACTIC EXAMINERS
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Kristine Shultz with the California Chiropractic Association commented on a CE course that was denied due the speaker's license being in forfeiture status. Dr. Stanfield informed Ms. Schultz that she would reconsider the reason for denial and follow-up with her no later than Monday, July 24, 2005.

Dr. Ray Weltch commented on reconsidering the number of hours required for a chiropractor to reactivate their license and suggested placing a cap on the number of hours required for reactivation. He also suggested approving CE completed outside of California.

Discussion and Action re: College Approval

Dr. Stanfield referred back to item G, College Approval, to address the application submitted by Palmer Chiropractic College - Florida. She indicated that Dr. Yoshida has some concerns regarding approving Palmer Florida as a Board-approved college at this time. Following comments rendered by Doug Hoyle, representing Palmer – Florida, the committee decided to pend the application on the outcome of the report from the second CCE site visit.

Regulatory and Legislative Update and Action

Disciplinary Guidelines

Dr. Stanfield announced that the scheduled regulation hearing for Section 384 – Disciplinary Guidelines would be rescheduled for public hearing at the October 2005 Board meeting.

Committee Assignments

Dr. Stanfield indicated that Judge Duvaras would be assigned to the Sunset Review, Regulation Review and the Enforcement committees that were previously assigned to former Board member, Mr. Marder.

Announcements

Following a brief discussion on rescheduling the September 2005 Petition/Nonadopt Hearings/Committee meeting, it was decided by the Board members to move the meeting from September 22 to September 29, 2005 in San Diego.

Public Comment

Deborah Mattos representing Southern California University of Health Sciences commented on the status of SB1256 – Vehicles: School Bus Drivers. She indicated that the Dept. of Consumer Affairs and the Dept. of Motor Vehicles have presented negative legal opinions regarding this bill. Ms. Mattos stressed the importance of the Board providing a legal opinion on behalf of chiropractors performing physicals as part of their scope of practice.

Patrick Shannon, Esq., representing the California Chiropractic Association, further commented on SB1256. He explained that the Board has the authority to provide a legal opinion regarding this bill.

Dr. Reed Phillips, representing Southern California University of Health Sciences, commented on SB1256 in support of the bill and requested the Board's support by providing a legal opinion.

Following a brief discussion on the role of the Board in relation to SB1256, Dr. Stanfield requested a copy of the legal opinions provided by Dept. of Consumer Affairs and the Dept. of Motor Vehicles be forwarded to the Board for further review.

New Business

Future Agenda Items

No future agenda items were discussed.

(4)

Office of Planning
Palmer College of Chiropractic
723 Brady Street
Davenport, IA 52803-5297
Telephone (563) 884-5512
Fax (563) 884-5505

PALMER COLLEGE OF CHIROPRACTIC

Fax

To:	Catherine Hayes Executive Director California Board of Chiropractic Examiners	**From:**	Douglas E. Hoyle, Ph.D. Palmer College of Chiropractic
Fax:	916-263-5369	**Pages:**	7
Phone:	916-263- 5355	**Date:**	8/8/2005
Re:	Palmer Florida Approval	**CC:**	

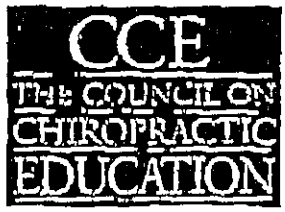
The contents of this fax should be considered confidential and are not for distribution.

Dear Ms. Hayes:

Here is the letter from the Council on Chiropractic Education (CCE) as promised at the recent California Board of Chiropractic Examiners meeting. Also as promised, I am eager to work with you to forge a positive outcome so that Palmer College of Chiropractic Florida graduates, who are graduating in December, can then sit for the California Exam. I would also like to emphasize that Palmer Florida has maintained CCE accreditation as well as accreditation with the Higher Learning Commission of the North Central Association. Given that our application to the California Board meets or surpasses the minimum requirements for approval by your board, we would ask once again that approval be granted. Please contact me at your earliest convenience at dehoyle@aol.com or (563) 884-5512 so that we may resolve this matter in the most expeditious manner.

Genuinely,

Doug Hoyle



COMMISSION ON ACCREDITATION
8049 NORTH 85TH WAY • SCOTTSDALE, AZ 85258-4321 • PHONE: 480-443-8877 • FAX: 480-483-7333

July 22, 2005

Donald P. Kern, D.C., President
Palmer College of Chiropractic
1000 Brady Street
Davenport, IA 52803

Re: Status of Concerns

Dear Dr. Kern:

At its July 2005 Semi-Annual meeting, the Commission on Accreditation (COA) of the Council on Chiropractic Education (CCE) met with you and other representatives of the Palmer College of Chiropractic (PCC) doctor of chiropractic degree program in a progress review meeting to discuss PCC's response to the focused site team report and progress made since the April focused site visit to the Florida campus.

The meeting provided an opportunity for PCC representatives to answer questions posed by members of the COA. In that session, we discussed a number of items including self-assessment and planning, student assessment, faculty hiring, scholarship and research. The COA appreciates the information provided by you and the PCC representatives at the meeting and noted the commendations reported in the site team report.

The COA considered PCC's responses and noted the following areas from the January 2004 Standards where PCCF has not yet demonstrated compliance and which represent areas of concern to the COA. It is important to note that each of these items will remain a concern until such time that evidence of compliance is sufficient for the COA to remove the concern.

III. Doctor of Chiropractic Degree Program Accreditation Standards

A. Mission, Self-Assessment and Planning

2. Goals

The DCP must have established goals, derived from its mission and giving direction to its activities in education, research and service.

3. Objectives.

The DCP must have developed its goals into objectives that state specific achievements toward which the program is working over a short time frame.

Donald P. Kern, President
Palmer College of Chiropractic
July 22, 2005

4. Self-Assessment

The DCP must carry out a periodic self-assessment in which it:

a. Evaluates how well it is fulfilling its mission and attaining its goals and objectives.

b. Identifies the manner in which resources are utilized to the fulfillment of mission and attainment of goals and objectives.

c. Evaluates the success of the DCP in meeting all of the CCE Standards on a continuing basis.

During the progress review meeting, PCC representatives discussed the recently implemented ALIGN Strategic Organizational Process that is expected to provide a more effective planning and self-assessment system. The COA is concerned that PCC does not have a formal plan based on its self-assessment and directed toward identifying changes in resources and organization of resources that would provide for more complete fulfillment of the mission, goals and objectives. PCC must provide a copy of the recently developed planning document and demonstrate that this new system drives ongoing planning and improvement based on self-assessment.

H. Clinical Education

1. Core Clinical Training Curriculum Design

b. The DCP must demonstrate that each student completes the following quantitative clinical requirements within the core clinical training program.

(2) an examination on 20 different patients (16 must be non-student* patients), and clinical examination involving 15 different care types (which may be included among the 20 different patients, or in which the student may assist, observe, or participate in live, paper-based, computer-based, distance-learning, or other reasonable alternative);

(5) a diagnosis on 20 different patients (16 must be non-student* patients), each with defined case management plans, and diagnosis of 15 different case types, each with defined case management plans (which may be included among the 20 different patients, or in which the student may assist, observe, or participate in live, paper-based, computer-based, distance-learning, or other reasonable alternative);

(7) evaluating and managing at least 10 cases (15 after the beginning of the Fall term 2003, to increase by 5 every two years to a maximum of 35 after September 2011) which, due to their complexity, require a higher order of clinical thinking and integration of data. This would include cases, which demand the application of imaging, lab procedures or other ancillary studies in determining a course of care, or cases in which multiple conditions, risk factors, or psychosocial factors have to be considered. A minimum of 10 cases must be live-patient cases (8 of which must be non-student* patients). In the remaining cases, the student may assist, observe, or participate in live, paper-based, computer-based, distance learning, or other reasonable alternative;

* A non-student patient is any patient other than a student of the DCP and a student intern's spouse, parents or children.

The DCP may establish additional or higher requirements in any of the above areas based on individual DCP goals and/or satisfaction of certain jurisdictional licensing requirements; however, these additional requirements

may be attained in any clinical or educational setting the DCP deems appropriate.

The COA is concerned that there is no accountable, accurate mechanism by which to verify and track the achievement of these quantitative clinical requirements. PCC must demonstrate that it has implemented and utilizes a verifiable system of recording and documenting earned quantitative requirements according to this standard.

g. The DCP must provide ongoing opportunities for learning, which must include activities based on current active cases with which the student is involved and which may also include small group case-based discussion, observations, directed assignments or other reasonable alternatives. These opportunities must allow students to assume increasing responsibility, under appropriate supervision, according to their level of training, ability and experience, and to participate in continued doctor-patient relationships.

h. The DCP must have a curriculum management plan that ensures:

(1) an ongoing clinical training review and evaluation process which includes input from faculty, students, administration and other appropriate sources;

(2) competencies are periodically reviewed and updated and that the clinical training is evaluated as to its effectiveness in imparting these competencies; and

(3) student participation is included in the evaluation of the effectiveness of clinical training integration with the overall DCP education.

i. There must always be an adequate number of clinic faculty who are immediately available in the clinical setting to oversee, supervise, and take responsibility for student delivery of patient care services.

The COA is concerned that the DCP has not established adequate faculty staffing, training and assessment of interns to ensure that level-appropriate feedback is regularly delivered to interns. During the status review meeting, PCC representatives explained a number of improvements that have taken place in the clinical program since the site visit including the addition of some of the planned faculty hires and the Clinic Management Committee's work toward the development of an on-going clinical training review and evaluation process. PCC must demonstrate the implementation of these planned improvements and activities as detailed in the response to the site team report and provide evidence of meeting the above standards.

3. Student Assessment and Evaluation

a. The DCP must utilize a system of student assessment and evaluation that is based on the goals, objectives, and competencies established by the DCP, as well as those defined by the CCE *Standards* and appropriate to entry level chiropractic practice. The system must clearly identify the summative and formative methods used, and the level of performance expected of students in the achievement of these objectives and competencies.

b. Feedback to the student must be useful and accurate. Informal or formal feedback sessions should occur regularly, as soon as possible after an assessment has been made.

c. Assessment tools must be compatible with the domain being assessed:

(1) knowledge must be assessed using appropriate written and oral examinations as well as direct observation;

(2) psychomotor skills must be assessed by direct observation;

(3) communication skills must be assessed by direct observation of student interactions with faculty, colleagues, and patients and their families. Skills may also be assessed by review of any written communications to patients and colleagues including clinical reports, and referral or consultation letters;

(4) interpersonal skills must be assessed by reviewing performance in collaboration with staff, members of the patient care team, and consultations with doctors of chiropractic and other health care providers as appropriate;

(5) attitudes must be assessed by interviews, observations, or evaluations with peers, supervisors, clinic faculty, and patients and their families; and

(6) competence in utilizing the acquired clinical data to arrive at a diagnosis, and develop a case management plan, must be assessed using appropriate written and oral examinations as well as direct observation.

d. The DCP system of assessment and evaluation must provide for the identification of deficiencies in student knowledge, attitude, or skills.

e. The DCP must provide:

(1) an appropriate process for students to review and appeal identified deficiencies in knowledge, attitude, or skills.

(2) a formal system of remediation.

f. Student assessment systems must:

(1) have a clear organizational structure for assessment;

(2) have a clear description of the role of faculty in assessment and how assessment information will be used in student evaluation;

(3) track and document student assessment and progress through the educational program including the integration of classroom performance, clinical performance, and the overall attainment of clinical competencies; and

(4) evaluate the effectiveness of assessment tools.

4. Quality Patient Care

The DCP must:

a. Conduct a formal system of quality assurance for the patient care delivery that demonstrates evidence of:

(1) standards of care with measurable outcomes criteria and ongoing review of a representative sample of patients and patient records to assess the appropriateness, necessity and quality of the care provided; and

(2) patient advocate grievance policies, procedures, outcomes and corrective measures.

b. Include the following characteristics in the quality assurance system:

(1) a clear organizational structure for quality assurance.

(2) a listing and description of each area and item (indicator) of quality assurance that is measured including:

(a) how the item is measured;

(b) how frequently the item will be measured;

(c) how data will be assessed to identify need for improvement;

(d) how improvement efforts will be determined;

(e) how improvement efforts will be followed to ensure implementation and improvement; and

(f) how the effectiveness of implemented changes/improvements will be assessed on an ongoing basis.

(3) methods for communicating quality assurance results to the clinic and larger DCP community.

c. Provide a written statement of patients' rights to all students, faculty, staff and each patient.

d. Provide ongoing training in basic life support and management of common medical emergencies for all students and supervising faculty involved in patient care.

e. Maintain and follow written policies and procedures for the safe use of ionizing radiation.

f. Follow federal, regional, state, and local requirements for clinical/laboratory asepsis, infection and biohazard control and disposal of hazardous waste.

g. Follow federal, regional, state, and local requirements regarding the confidentiality of patient information.

h. Meet all state and community standards for chiropractic assessment and care, billing, and financial transactions.

i. Monitor and enforce all professional and legal requirements, inherent in the responsibilities of a licensed doctor of chiropractic.

5. Required Clinical Competencies

The COA noted the site team's report of substantial progress made in the development of a system-wide outcomes assessment process. During the meeting with the COA, PCC representatives discussed progress made on the various components of its developing student assessment system on the Florida campus. The COA is concerned that insufficient evidence exists at this time to demonstrate achievement of these competencies and standards. The COA requires an update on PCCF's compliance with these standards providing supporting evidence in the Progress Report requested at the end of this communication.

I. Research and Other Scholarly Activity

3. Inputs

The DCP must provide appropriate financial, faculty, physical, and administrative resources for the conduct of research and scholarly activities.

The COA is concerned that faculty do not have the opportunity to be engaged in research and scholarly activities due to heavy teaching loads and/or administrative

Donald P. Kern, President
Palmer College of Chiropractic
July 22, 2005

responsibilities. PCC reported that it is planning to hire more faculty and that it has put the necessary resources in place to support faculty engagement in scholarly and research interests. PCC must provide a report on the research and scholarly activity outcomes at PCCF.

The COA requests a Progress Report on the activities taken to strengthen the PCCF program. The report must specifically address all of the above concerns and provide evidence that the program is in compliance with the CCE *Standards*. The report is due no later than December 2, 2005 for review at the January 2006 COA Meeting.

Given the concerns addressed above, the COA believes it is important for all programs to be informed of the USDE requirements for time limits on enforcement of standards. USDE Title 34 Criteria for Recognition (CFR) Part 602, Subpart B, reads as follows:

602.20 Enforcement of Standards

(a) If the agency's review of an institution or program under any standards indicates that the institution or program is not in compliance with that standard, the agency must –
(1) Require the institution or program take an appropriate action to bring itself into compliance with the agency's standards within a time period that must not exceed –
(iii) Two years, if the program, or the longest program offered by the institution, is at least two years in length.

As noted in the COA letter of July 27, 2004, PCC must demonstrate resolution of the above concerns by the July 2006 COA Meeting. If you wish additional information concerning the USDE requirements, please contact the CCE Executive Office at your convenience.

If you have questions regarding the above, please feel free to contact me, or the CCE Executive Director, Dr. Martha S. O'Connor, through the CCE Executive Office.

Sincerely,

Laura Weeks, D.C., Chairman
Commission on Accreditation

c: Vickie Palmer, Chair, Palmer Board of Trustees
Members the Commission on Accreditation
Martha S. O'Connor, Ph.D., CCE Executive Director

LICENSING

Licensing Statistics

Mr. Hinchee reported that the Licensing Unit is up-to-date with all licensing issues and is operating efficiently.

Chiropractic Law and Professional Practices Exam (CLPPE)

Mr. Hinchee referred to exhibit K, CLPPE handout for the quarterly report on exam scores.

Discussion and Action re: College Approval/ Palmer-Florida

Ms. Hayes referred to exhibit L regarding discussion on College Approval/Palmer-Florida and deferred to public comment regarding this issue.

Dr. Stanfield inquired of Dr. Douglas Hoyle, Chief Institutional Effectiveness Officer, representing all three Palmer Campus', if an updated brochure has been completed and forwarded to the Board for review. Dr. Hoyle commented that a new edition would be available in mid-December 2005. He also informed the Board that in 2002 Palmer-Florida achieved licensure in Florida and have maintained licensure annually. Dr. Hoyle added that Palmer-Florida has achieved regional accreditation as a branch campus through the North Central Association and Council on Chiropractic Education (CCE) accreditation and all other states.

Dr. Stanfield informed Dr. Hoyle that the Board would consider all comments presented, along with documents submitted, and will contact him by mid-November 2005.

Dr. Craw requested clarification on what part of Florida's program is regionally accredited. Dr. Hoyle explained that the North Central Association provides institutional accreditation for the entire campus whereas CCE only accredits the chiropractic program. He further explained that since Palmer-Davenport College is regionally accredited and Palmer-Florida is viewed as a branch campus of Davenport, the regional accreditation was extended from Davenport to Florida. Following further discussion by the Board regarding Florida regional accreditation, Dr. Stanfield again informed Dr. Hoyle that the Board will contact him by letter regarding the approval/denial of Palmer-Florida.

Ms. Hayes referred the Board to a letter in the supplemental folder, regarding correspondence from Martha O'Connor, Executive Director for the CCE. Ms. Hayes indicated that the letter alleges that the Board disbursed to the public a final copy of the site visit for one of the CCE accredited programs and claimed that it was a major departure from past practices and identifies this report as containing confidential information. Ms. O'Connor requested that the Board protect the confidentiality of the Doctor of Chiropractic Programs and institutions and discontinue distribution of confidential information to the public.

Ms. Hayes explained that her letter of response to CCE pointed out that under the law the Board is required to make such reports available to the public and that it cannot be reviewed secretly.

REGULATORY AND LEGISLATIVE UPDATE

Update on Manipulation Under Anesthesia (MUA)

Dr. Stanfield announced that the Office of Administrative Law (OAL) rejected the Board's proposed regulation on MUA. Dr. Stanfield asked for public comment regarding OAL disapproval.

Charles G. Davis, D.C., representing International Chiropractor's Association of California, commented on the issues raised by OAL's disapproval of MUA. Dr. Davis provided suggested language to the Board to be resubmitted to OAL or recommended updating the 1990 Board statement pertaining to MUA.

Ed Cremata, D.C., commented on OAL's denial of MUA and provided the Board with various handouts and literature on updated information pertaining to MUA and the safety and ethicizes of the procedure. Dr. Cremata referenced a letter from Raymond Ursillo, D.C. authorizing chiropractors to practice MUA in California.

(6)

********** -COMM. JOURNAL- ********** DATE NOV-10-2005 **** TIME 10:20 ********

MODE = MEMORY TRANSMISSION START=NOV-10 10:18 END=NOV-10 10:20

FILE NO.=481

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-BCE STATE OF CALIFORNIA -

********** - ***** - ********

State of California

MEMORANDUM

To: Board Members **Date:** November 9, 2005

From: Lavella Matthews
Licensing Program Analyst

Subject: Palmer College of Chiropractic – Florida (PCCF)

The application was initially received for board approval on May 18, 2005. The application was addressed at the July 21, 2005 Board meeting and was tabled pending the outcome of the CCE site report.

The site report dated July 22, 2005 (in your Board packet) indicates that PCCF has not demonstrated compliance that represents areas of concern with the COA. PCCF has been instructed to provide a progress report to specifically address all of the concerns and provide evidence that their program is in compliance with the CCE standards. The report is due no later than December 2, 2005 for review at the January 2006 COA meeting.

standards as outlined by Office of Administrative Law, or withdraw it completely.

JUDGE DUVARAS MOVED TO WITHDRAW THE MUA REGULATION. DR. YOSHIDA SECONDED THE MOTION. VOTE: 6-0. MOTION CARRIED.

Dr. Yoshida left the meeting at 1:58 p.m.

Continuing Education (CE) Committee

Dr. Stanfield directed the Board to review the "Notice to All Providers Letter" in their Board packet and asked for a motion.

DR. TYLER MOVED TO ADOPT THE "NOTICE TO ALL PROVIDERS LETTER." DR. HAYES SECONDED THE MOTION. VOTE: 5-0. MOTION CARRIED.

Dr. Hamby referred to Exhibit G, Course/Provider Worksheet for Board member review and signatures.

DR. HAMBY MOVED TO ADOPT THE LIST OF APPROVED CE PROVIDERS AND COURSES. DR. HAYES SECONDED THE MOTION. VOTE: 5-0. MOTION CARRIED.

Dr. Stanfield reported that an issue was brought to staff's attention regarding out-of-state doctors teaching adjustive techniques in California. She further reported that there is no problem if the doctor is hired as a consultant and is performing lectures. However, Dr. Stanfield asked the Board if there is a need to look into this further and change the regulation regarding chiropractors that do not have an active California license and whether they are allowed to teach the hands-on portion of adjustive technique in California. Following a brief discussion, Dr. Stanfield asked for a motion.

DR. HAYES MADE A MOTION FOR THE CE COMMITTEE TO INTERPRET CONSULTATION UNDER SECTION 16 OF THE CHIROPRACTIC INITIATIVE ACT TO INCLUDE TEACHING AT A CONTINUING EDUCATION SEMINAR. DR. TYLER SECONDED THE MOTION. VOTE: 5-0. MOTION CARRIED.

Examination/Licensing Committee

Ms. Hayes referred to Exhibit L and reported that Palmer Chiropractic College, Florida, is seeking to get Board approval for graduates from their college. Dr. Stanfield advised the Board that a decision needed to be made whether to deny the application; ask Palmer College to provide the correspondence between the Council on Accreditation (COA) and themselves regarding their accreditation; or to approve their application. After a brief discussion, the Board agreed to ask Palmer College to provide correspondence between COA and themselves pertaining to their first, second, and possibly third onsite visit and present it to the Board and depending if the information is received in time, it will be revisited in January 2006.

DR. HAMBY MADE A MOTION FOR PALMER COLLEGE TO PROVIDE CORRESPONDENCE. JUDGE DUVARAS SECONDED THE MOTION. VOTE 4-1. MOTION CARRIED.

Sunset Review Committee

Ms. Hayes reported that the hearing date for the Board's Sunset Review is December 6, 2005.

Dr. Stanfield adjourned the meeting at 2:40 p.m.

Palmer College of Chiropractic Florida
Documents Referenced in Timeline

Items 8 - 10

(8)

Palmer College of Chiropractic

BOARD OF CHIROPRACTIC EXAMINERS
06 JAN 10 AM 9:37

Accreditation *Planning* *Institutional Research*

January 9, 2006

Ms. Lavella Matthews
Licensing Program Analyst
CA Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833-2931

Dear Ms. Matthews:

Attached please find a copy of the Council on Chiropractic Education progress report that we prepared on behalf of Palmer College of Chiropractic Florida. It was submitted on December 2, 2005. You should also know that a letter is being prepared to be sent to you as per your wishes indicating the process the Commission on Accreditation (COA) is taking with Palmer Florida.

We sincerely hope submission of this information meets your information needs and gets us all closer to resolution of this matter by approving Palmer Florida by your board.

Genuinely,

Douglas E. Hoyle

Douglas E. Hoyle, Ph.D.
Chief Institutional Effectiveness Officer
Palmer College of Chiropractic

Office of Institutional Effectiveness
723 Brady Street, Davenport, Iowa 52803
Phone: 563-884-5512 Fax: 563-884-5505 www.palmer.edu

Campus Locations:

Palmer Florida
Port Orange, Florida

Palmer Davenport-The Fountainhead
Davenport, Iowa

Palmer West
San Jose, California

PROGRESS REPORT

SUBMITTED AS A REQUIREMENT FOR CONTINUED ACCREDITATION

TO THE COMMISSION ON ACCREDITATION OF THE

COUNCIL ON CHIROPRACTIC EDUCATION

DECEMBER 2, 2005

PALMER COLLEGE OF CHIROPRACTIC FLORIDA

4777 City Center Parkway

Port Orange, FL 32129-4153

Composed by Douglas E. Hoyle, Ph.D., Chief Institutional Effectiveness Officer
with assistance from

Albert J. Luce, D.C., Director of Clinics
Donald Dishman, D.C., Director of Research
Julie-Marthe Grenier, D.C., DACBR, Radiology Services Coordinator
Edward Pappagallo, D.C., Coordinator of Clinical Academics
Rachel Darnell, M.P.A., Assistant Office of Planning

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II	Clinic Read-Off Credit
III	Case Type Summary Form and Criteria
IV	Diagnostic Studies Requisition Form
V	Radiology Requisition Form
VI	Cases of High Complexity Criteria
VII	Patient Intake Form
VIII	Clinical Exit Examination Summary Report
IX	Clinical Examination (CE 12) Sample Questions
X	Remediation Referral Form
XI	Utilization/Peer Review Check List
XII	Patient Grievance Procedure
XIII	Evaluation and Management Coding Worksheet
XIV	Soap Notes
XV	Assessment Rubric - History Taking
XVI	Radiographic Performance Evaluation
XVII	Competency Assessment Matrix (CAM)
XVIII	Research Publication and Presentation List

INTRODUCTION

At its July 2005 semi-annual meeting, the Commission on Accreditation (COA) of the Council on Chiropractic Education (CCE) met with representatives of the Palmer College of Chiropractic Florida (PCCF) Doctor of Chiropractic Degree Program in a progress review meeting to discuss PCCF's response to the focused site team report and progress made since the April focused site visit to the Florida campus.

As a result of that meeting, the COA noted a number of areas from the January 2004 *Standards* where it considered PCCF had not yet demonstrated compliance and which represent areas of concern to the COA. The COA requested a Progress Report on the activities taken to strengthen the PCCF program. It was requested that the report address all of the indicated concerns and provide evidence that the program was in compliance with the CCE Standards. The report was to be due no later than December 2, 2005.

That which follows is a response to the concerns noted by the COA. It is Palmer's position that it is now in compliance with the January 2004 CCE *Standards*. This report contains an explanation of how Palmer Florida is in compliance and contains evidence to substantiate those positions.

2.III.A. Mission, Self Assessment and Planning

2. Goals

The DCP must have established goals, derived from its mission and giving direction to its activities in education, research and service.

3. Objectives

The DCP must have developed its goals into objectives that state specific achievements toward which the program is working over a short time frame.

4. Self-Assessment

The DCP must carry out a periodic self-assessment in which it:
a. Evaluates how well it is fulfilling its mission and attaining its goals and objectives.
b. Identifies the manner in which resources are utilized to the fulfillment of mission and attainment of goals and objectives.
c. Evaluates the success of the DCP in meeting all of the CCE Standards on a continuing basis.

During the progress review meeting, PCC representatives discussed the recently implemented ALIGN Strategic Organizational Process that is expected to provide a more effective planning and self-assessment system. The COA is concerned that PCC does not have a formal plan based on its self-assessment and directed toward identifying changes in resources and organization of resources that would provide for more complete fulfillment of the mission, goals, and objectives. PCC must provide a copy of the recently developed planning document and demonstrate that this new system drives ongoing planning and improvement based on self-assessment.

PCCF RESPONSE A.2,3,4 Mission, Self Assessment and Planning:

In December 2004, a survey was placed upon an Internet site for Palmer Florida faculty and staff (including executives) to fill out. The purpose of the survey was to determine pre-designated planning initiatives – their importance to PCCF stakeholders and the degree to which those stakeholders felt adequate attention was being paid to those initiatives. Respondents to the survey were given approximately three weeks to complete the survey, at which time results were tabulated. At the time that the ALIGN survey was administered electronically, it was felt that there were not enough faculty and staff employed at Palmer Florida to make the results statistically meaningful as a stand alone planning document. Therefore, the results of that survey were integrated into the results of the

identical survey that was administered for response by Palmer College of Chiropractic (Davenport, IA).

At the July 2005 semi-annual meeting of the COA, commissioners requested that results of the survey be isolated from those of the Davenport campus. Since the ALIGN survey was designed to be administered on a longitudinal basis and was going to be administered again anyway, it was re-administered to Palmer Florida stakeholders once again in October 2005. Methodologically this made sense to be able to include a greater statistical response from a greater number of stakeholders, that had been added to the campus since the year before, and to determine any changes from the previous administration of the instrument a year earlier. It also allowed Palmer administrators to address PCCF planning issues independent of Davenport issues, which was not the case a year earlier.

As part of the strategic organizational development process, in November 2005, a group of Palmer administrators from Iowa and Florida met to establish those initiatives requiring plans of action. A document was generated during the course of that two day meeting focusing on those initiatives. That document, titled Management, Validation, and Action Planning, is provided in **Exhibit I.** The planning document consists of a number of components. Principle Elements are those broad planning initiatives to be addressed. There were seven that were identified as being important for Palmer Florida. They included the following:

1. Purpose, Competitive Analysis, Strategic Advantage (i.e., What is the purpose of Palmer Florida? Who are the competitors of the college? What strategic advantages of the college exist over PCCF competitors?)
2. Improved Quality of Education (i.e., What can be done to enhance the educational experience of the DCP at Palmer Florida?)
3. Improved Customer Service (i.e., How can PCCF enhance the student experience and student services at the college?)
4. Improved Internal Communication (i.e., What mechanisms and processes can be used to enhance communications within Palmer?)

5. Structural Alignment - Effective Execution (i.e., How do we organize ourselves to maximize the effective execution of education at the college?)
6. Planning (i.e., What processes do we need to put in place to enhance the anticipation of needs, combined with budgeting, to satisfy those needs?)
7. Performance Management (i.e., How do we enhance the effectiveness of Palmer faculty, staff, administrators, and alumni to the benefit of PCCF?)

While all seven items were deemed as critical to the effective functioning of Palmer Florida, items 1-3 were assigned the highest priority. As the team of administrators met for two days, it became apparent that satisfying the elements of items of 1-3, would address the requirements for the remainder of the elements. Therefore the focus was on those three items. As **Exhibit I** indicates, each principle element has a set of key elements to be accomplished. In accomplishing the key objectives, budgets must be developed to satisfy costs associated with the key objectives. Ownership consists of those individuals accountable for accomplishing key objectives. Milestones are those critical points in the process of satisfying key objectives that indicate points of accomplishment. Finally, each milestone has a date associated with it indicating a point in time for accomplishment. The person responsible for ensuring that this document is administered correctly and in a timely fashion is Dr. Douglas E. Hoyle, Chief Institutional Effectiveness Officer for Palmer College of Chiropractic. His responsibilities in this planning process exist on all three campuses.

In addition to the WLI ALIGN strategic organizational process, there are other processes at work to augment the strategic planning nature of WLI ALIGN. These processes take the form of regularized data collection through Palmer Institutional Research and Planning surveys that are currently being conducted on each of the Palmer campuses. While the WLI ALIGN process tends to be more strategic in nature, the institutional effectiveness research tends to be more tactical. However, it will be synthesized into institutional research reports with tactical items requiring attention identified and administratively addressed. As

issues are identified through that institutional research, they will be incorporated into the WLI ALIGN document and processed in a similar fashion utilizing key objectives, resource allocation, ownership, milestones, and due dates, also administered by Dr. Hoyle. It is through these mechanisms, complemented by the budget process and appropriate timelines, that mission elements pertaining to education, research, and service will receive appropriate action, will define the planning process, will establish appropriate objectives, and will elucidate outcomes.

Exhibit I

Management Validation & Action Planning

Consultant Name: _____

Engagement Date: _____

Comment:

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Management Validation & Action Planning

Key Objectives	Resource Allocation	Ownership	Milestones	Due Date	Measurements
Purpose: Competitive Analysis, Strategic Advantage					
Define and agree on organizational purpose	Meeting Time Commitment from Management Group Meeting Costs	Doug Hoyle Peter Martin	Research what is currently in system	02/03/2006	
			Management Group meets to discuss what is currently in system.	02/24/2006	
			Communicate the purpose to the PCCF community through focus groups.	03/28/2006	
Develop a competitive analysis program to provide a strategic advantage to the organization	Management Group Time Commitment Meeting Costs	Kim Amendola Darren Garrett Melissa Lingo	Hold focus groups to generate a list of PCCF competitive advantages	03/28/2006	
			Present results to Management Group for consideration, comment and refinement	04/28/2006	
			Incorporate in Maketing Plan	06/30/2006	
Improve Quality of Education					
Conduct a needs analysis of the customer to determine what they feel are their needs.	Instuctional Effectiveness develop survey instruments Time commitment for focus group activities Time commitment for focus group activities of all stakeholders including students, faculty and alumni. Commitment from other campuses to share information and resources in a joint Palmer College effort. Time commitment for involvement with FCA	Don Gran Medhat Alattar Jimi Larose Al Luce Doug Hoyle	Collect and consider current data	01/16/2006	
			Develop questions for data collection	02/01/2006	
			Analyze data and form conclusions	02/15/2006	
			Meet with Management Group to share data and determine application of conclusions.	02/22/2006	

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Key Objectives	Resource Allocation	Ownership	Milestones	Due Date	Measurements
Improve Quality of Education					
Evaluate all aspects of the curriculum, to determine effectiveness of curriculum in meeting customers' needs and program objectives as well as the capability of the institution to deliver.		Don Gran Larry Swank	Coordinate with Institutional Effectiveness on the current assessment project and determine how that data will assist to identify gaps.	02/28/2006	
			Learning Outcomes Committee assess data and provide understanding of gaps whereupon they make recommendations on what action is necessary	03/31/2006	
			Develop a plan of action to review the effectiveness of the overall curriculm and the ability to the institution to deliver.	03/31/2006	
			Coordinate with the Learning Outcomes committees on other campuses.	04/19/2006	
			In conjunction with Curriculum Managment Committee, develop strategies to implement outcomes	05/03/2006	
Develop better transition and coordination between academic program and clinic experience.		Don Gran Larry Swank Al Luce Jimi LaRose Medhat Alattar	Develop a gap analysis between needs of clinic and academic program	02/28/2006	
			Review data from gap analysis by Curriculum Management Committee	03/15/2006	
			Develop plan of action to implement recommendations	04/03/2006	
Develop faculty development program to enhance instruction		Don Gran Larry Swank	Coordinate with Chief Academic Develolpment Officer to assure faculty training is avaialble at Florida	12/06/2005	
			Develop plan of action to institute mentorship system based on rank and ability	02/15/2006	
			Develop an action plan to determine special training needs for Palmer Florida Faculty	02/28/2006	
			Develop a plan of aciton to encourage the development and utilization of teaching teams	03/07/2006	

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Key Objectives	Resource Allocation	Ownership	Milestones	Due Date	Measurements
Improve Quality of Education					
Develop a program for effective integration of technology in the teaching/learning environment.		Don Gran Larry Swank	Conduct an assessment of the current state of technology on the Florida Campus and its effective utlization in the teaching/learning environment.	03/07/2006	
			Coordinate with the Chief Academic Development Officer and Chief Support Services Officer to integrate a system-wide program for the use of technology in the teaching learning environment.	03/31/2006	
			In cooperation with the Chief Academic Development Officer, develop a plan of action for a program of faculty training in the use of technology.	04/28/2006	
Review admission standards to determine requirements for best success as chiropractor		Michael Novak Kim Amendola Doug Hoyle	Coordinate with Chief Enrollment Officer to develop a plan of action for a program to make the selection of those students who have the greatest possiblity of success.	01/24/2006	
			Collect and share data on requirements both with regard to accrediation as well as licensure requirments	01/25/2006	
			Review existing data on board scores and level of entry degree	01/25/2006	
Improve process for hiring new faculty.		Don Gran Michelle Walker	Review existing process	01/25/2006	
			Develop a process based on established standards that would allow the college to select the best faculty and to establish a communications systems that makes it clear PCCF's expectations and that the potential faculty understand the reward system in use at PCCF.	05/31/2006	
Improved Customer Service					
Conduct student focus groups to determine areas where improved student support services can take place		Melissa Lingo	Review the institutional research relative to student satisfaction	02/15/2006	
			Develop protocols for focus group interviews on the areas that are not being met as determine in the step above.	03/01/2006	
			Conduct focus group activities	04/20/2006	
			Share the outcomes of the focus group activities with the management team	04/27/2006	

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Key Objectives	Resource Allocation	Ownership	Milestones	Due Date	Measurements
Improved Customer Service					
Develop a plan for improved student support		Melissa Lingo	Review and develop a list of priorites to be worked on for improved student support	04/27/2006	
			Develop a plan for the development of programs to assist students in achieving their desired outcome and especially in handing the stress that is attributable to the intensity of the program.	05/25/2006	
			Develop an implentation plan of action for executing new programs and enhancing existing programs for improved customer support	05/25/2006	
			Develop a feed back from students to ensure that student support efforts are meeting defined student needs.	05/25/2006	
Develop a plan of action that raises all stakeholder's awareness of the importance of student support programs and obtain buy-in so that they become a part of student support effort		Don Gran Melissa Lingo	Based on the developed program for student support, develop and execute an inservice progam to assure that everyone is supporting the student support areas.	07/19/2006	
			Develop workshops to enhance both the attitude and skills of all stakeholders in working with students	07/19/2006	
Renew student support efforts based on student services plan		Melissa Lingo Don Gran	Develop a plan of action for the development, modification and execution of student support programs.	01/25/2007	
Structural Alignment - Effective Execution					
The key objectives of structural alignment and its effective execution are accomplished through the accomplishment of principal elements 1-3.					
Improved Internal Communications					
Establish key leadership team		Peter Martin	Hold Meeting of Key Leadership Team	11/22/2005	
			Discuss role of leadership team in internal communications	11/22/2005	
			Establish communiations mechanism for interaction and feedback through the key leadership team	12/19/2005	
Planning					

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Key Objectives	Resource Allocation	Ownership	Milestones	Due Date	Measurements
Planning					
Establish a clear purpose for the system and for Palmer Florida			The milestones for Planning and in establishing a clear purpose for the System and for PCCF have been established through previously noted principal elements and their objectives.	04/01/2006	
Performance Management					
The key objectives for performance management have been established through other principal elements. As they are accomplished, so will be performance management.					

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2.III.H. Clinical Education

1. Core Clinical Training Curriculum Design

b. The DCP must demonstrate that each student completes the following quantitative clinical requirements within the core clinical training program.

(2) an examination on 20 different patients (16 must be non-student* patients), and clinical examination involving 15 different care types (which may be included among the 20 different patients, or in which the student may assist, observe, or participate in live, paper-based, computer-based, distance-learning, or other reasonable alternative);

(5) a diagnosis on 20 different patients (16 must be non-student* patients), each with defined case management plans, and diagnosis of 15 different case types, each with defined case management plans (which may be included among the 20 different patients, or in which the student may assist, observe, or participate in live, paper-based, computer-based, distance-learning, or other reasonable alternative);

(7) evaluating and managing at least 10 cases (15 after the beginning of the Fall term 2003, to increase by 5 every two years to a maximum of 35 after September 2011) which, due to their complexity, require a higher order of clinical thinking and integration of data. This would include cases, which demand the application of imaging, lab procedures or other ancillary studies in determining a course of care, or cases in which multiple conditions, risk factors, or psychosocial factors have to be considered. A minimum of 10 cases must be live-patient cases (8 of which must be non-student* patients). In the remaining cases, the student may assist, observe, or participate in live, paper-based, computer-based, distance learning, or other reasonable alternative;

*** A non-student patient is any patient other than a student of the DCP and a student intern's spouse, parents or children.**

The DCP may establish additional or higher requirements in any of the above areas based on individual DCP goals and/or satisfaction or certain jurisdictional licensing requirements; however, these additional requirements may be attained in any clinical or educational setting the DCP deems appropriate.

The COA is concerned that there is no accountable, accurate mechanism by which to verify and track the achievement of these quantitative clinical requirements. PCC must demonstrate that it has implemented and utilizes a verifiable system of recording and documenting earned quantitative requirements according to this standard.

PCCF RESPONSE: H.1. Clinical Education

To address the above CCE concern PCCF clinics have restructured the core design and added multiple protocols and procedures which are described below.

1. Core Clinical Training Curriculum Design:

1.a. The clinic is structured in a modular system with each module having adjusting rooms, examination rooms, consultation rooms and overflow rooms. Specialty areas such as "Activator", "Flexion-Distraction" and therapy suites are shared. Clinic faculty doctors (clinicians) are assigned to a module. Clinic faculty doctors are also assigned to an AM or PM shift. AM and PM doctors in the same module are called reciprocals. The AM shift consists of 5 hours of patient care time followed by a two hour period where the clinic is closed to patient care. This is followed by another 5 hour patient care shift. During these two hours, both the AM and PM clinic faculty doctors are present. It is during this time that the Case Management and Review (CMR) process occurs. Other activities such as student mentoring, meeting, Active Learning Sessions (ALS) and reciprocal consultations also occur during this period. Patients are assigned to a module and a clinic faculty doctor (Clinician of Record) for consistency in the patient's care. Students are not assigned to a specific module to ensure exposure to a variety of management styles from all the different faculty doctors.

Student interns may choose any doctor to oversee the care of a patient they wish to bring into the clinic. The intern must, however, ask a clinician for permission to schedule the new patient in the clinician's schedule. If accepted by the clinician, the patient will be assigned to the specific module and the clinician will become the official Clinician of Record (COR) responsible for the case. The intern becomes the Intern of Record (IOR). If a patient comes to the clinic without a specific referral, the patient will be assigned to an IOR via a lottery system. The COR is the only person allowed to make changes to the patient's care plan. The IOR is the only student able to treat the patient. The approval of the COR is required if the IOR is not present and another student wishes to treat the patient.

This system is to limit the "patient swapping" phenomenon. Both the COR and the IOR are recorded in Raintree software system and are displayed each time the patient's electronic file is accessed. If another intern attempts to treat a patient without authorization from the COR, the front desk staff will not record the transaction and the credit slip will be submitted to the staff supervisor. The staff supervisor will forward the tagged credit slip to the COR who will take the appropriate disciplinary action(s).

Upon entering the clinic system each student intern is assigned a Clinic Faculty Advisor. The advisors role is to assist the intern through their entire clinical experience. The advisor will receive quantitative and qualitative information from the Coordinator of Clinical Academics and the Radiology Services Coordinator offices. Advisors also share and monitor the student intern's progress through the clinic.

H.1.b. Clinical Training-Ranges of Cases Types

H.1.b(1) Histories:

The history taking portion of the patient encounter has been greatly improved since the site team visit. Although most of the interview is not observed directly, the student has to discuss the case with the clinician of record. These discussions are incorporated into the history taking forms and are referred to as "critical stop points." The student and clinician of record have to review the obtained information and answer the "Three Essential Questions of Diagnosis": presence of red flags, pain generators and dysfunctional links. (Murphy DR. Conservative Management of Cervical Spine Syndromes. McGraw-Hill, 2000.)

Depending on the student's ability and level, the history can be obtained using a form outlining different questions (closed-ended questioning) or on a blank page (open-ended questioning). Junior interns use the closed ended form, while senior interns are strongly encouraged to utilize the blank form. The history-taking encounter is evaluated by the clinician of record using the competency assessment matrices (CAM). See section H5 of this report for details on CAM.

The student intern's history-taking abilities are directly observed in the Clinic Entrance (CE9) and Clinic Exit Examinations (CE12) as well as in the various academic classes during laboratory examinations.

These assessment matrices (CAM) can identify any deficiencies of intern performance and are utilized to identify areas where remediation is needed.

After the patient is released and before the report of findings, the clinician of record and the student intern must meet to prepare the file. This process is called "Case Management and Review" (CMR) or in the case of a re-examination "Review and Update". After the encounter, if everything is completed to satisfaction of the clinician of record, the student receives a "Read-off slip" or credit for the specific activity (see **Exhibit II**).

The **Read-Off Slip Procedure** ensures the quality of the student intern's work and also enables the clinic to set time parameters or deadlines for processing the patient's case. If the work is completed in a timely fashion and conforms to the standards of the clinic, the COR will submit a Read-Off Slip. If the intern's work is unsatisfactory, no credit can be given for the activity or procedure. When the CMR is completed, the clinician of record will check either the "CMR new" or "CMR established" item on the form. If "CMR new" is checked, the software will translate this code into a history credit, examination credit, and diagnosis credit relating to *The Council on Chiropractic Education, Standards for Doctor of Chiropractic Programs and Requirements for Institutional Status, January 2005.*: H1b(1), (2) and (5). If the "CMR established" item is checked, no credit will be given by the software. This is how histories, examinations and diagnoses obtained on the same patient are separated from new patient encounters. The COR can verify that this patient is new to the intern. At the time of the CMR, the COR serves as the filter to ensure that appropriate credit will be given to the intern. The "CMR new" item should be interpreted as: the patient being new for

this specific student intern. This ensures that *The Council on Chiropractic Education, Standards for Doctor of Chiropractic Programs and Requirements for Institutional Status, January 2005.* III H.1.b(1), (2) and (5) will be based on 20 different patients. The CMR activities performed on an existing patient are still tabulated. Even though they may not be counted for credits, they still may satisfy other requirements in the syllabi for the clinic courses. The "Read-Off Slip" is a duplicate form. One copy is given to the student and the other copy is forwarded to the CCA via a locked drop box. The read-off credits are entered into a separate ledger in the Raintree software system. This process is completely independent from the billing aspect. The credit is only awarded for H.1.b(1), (2) and (5) when a read-off slip is completed and processed whether the patient paid or not.

H.1.b(2) Examination:

Since the site team visit, the examination forms and file structure have changed. The examinations are based on the *Centers for Medicare and Medicaid Services* (1995 and partially 1997) *Documentation Guidelines for Evaluation & Management Services* body areas and organ systems. Most of the examinations were designed by Thomas A. Souza D.C., DABCSP, Dean of Palmer College of Chiropractic-West, and author of the book *Differential Diagnosis and Management for the Chiropractor, Protocols and Algorithms*. An open-ended examination form is also available for senior interns with permission of the clinician of record. The PCCF clinics evaluation and management procedures and protocols also allow for "spot diagnoses". No procedure is mandated to be performed on any patient in this clinic. Every procedure is performed based on clinical need including the level of history and examination, diagnostic procedures and so on.

Documentation of examinations and appropriateness of examination selection will be monitored in the peer review process described in section H4 of this report.

As explained previously, following the patient interview (history), the student intern must meet with the clinician of record and explain which examination procedures should be performed on the patient. This is another example of the "critical stop points." After an understanding by both parties, the selected examination procedures are performed. Before the patient is released, the clinician must be satisfied with the findings and verify that it is safe for the patient to be released from the clinic. The encounter is evaluated with the assessment rubrics (AR) and competency assessment matrices (CAM). Deficiencies revealed by the rubrics will result in appropriate remediation. Credit is awarded in the same manner as the history credit mention above in the "Read-Off Procedures" described in section H.1.b(1) of this report.

Case types for examination and diagnosis H.1.b (2) and (5):

Case types can be obtained through live patient encounters, case simulations (ALS) and clinic examinations. A history, examination and diagnosis (CMR) must be obtained in order for the case to be counted. The "Case Type" criteria is based on *The Council on Chiropractic Education, Standards for Doctor of Chiropractic Programs and Requirements for Institutional Status, January 2005.*, definition located in Appendix III:

Case types = *In this context, "case types" represents a list of diagnostic entities (e.g., lumbar disc herniation, hypertension), patient presentations (e.g., woman with fatigue, patient over 50 with insidious low back pain, patient with radiating arm pain and nerve root deficits), and/or subluxation or joint dysfunction patterns (e.g., T4 syndrome, Maigne's syndrome, upper cervical joint dysfunction causing cervicogenic headache) which will represent the intended training domain of the clinical training phase of the DCP.*

The cases are compared and considered different if two out of four criteria are different. The criteria include body region or joint affected, age group (<20, [20, 50], >50 yoa), presence of associated symptoms and presentation/onset (acute or chronic).

The case types are tabulated and documented on "read off slips". A summary sheet is also located in the portfolio. (See **Exhibit III** for the Case Type Summary Form and the Case Types Criteria.)

H.1.b(3) Clinical Laboratory Tests:

PCCF Clinics has established working relationships and business accounts with two area laboratory facilities: Tomolka Labs and LabCorp. Laboratory tests can easily be ordered by the students and clinicians of record by using the "Diagnostic Studies Requisition Form". (See **Exhibit IV**) After collection of the specimen at the chosen facility, the reports are faxed or delivered the following business day. The student intern then interprets the report using the laboratory report worksheet and consults with the radiologist who serves as the reference person for all diagnostic studies. A referral list with different practitioners has also been established. Referrals can now easily be made to orthopedists, neurologists, counselors and many others. Laboratory quantitative requirements can be obtained through live-patient encounters or simulated cases, are tracked through the "read off slip procedure," and a summary form is placed in the student intern's portfolio.

H.1.b(4) Radiology:

The position of Radiology Services Coordinator (RSC) was created and filled in July 2005. A board-certified chiropractic radiologist is under contract in the clinic to interpret the radiographs and coordinate all diagnostic studies, including referrals for advanced imaging and clinical labs.

Plain film radiography is the only imaging modality available on campus. Flexible guidelines are in place. They are based on the Florida statutes on utilization of diagnostic studies (Statute 64B-17.005) and the American College of Radiology Practice Guidelines. Guidelines or practice standards from the Council on Diagnostic Imaging, subcommittee of the American Chiropractic Association and American College of Chiropractic Radiology are also utilized.

Before radiographs or any other diagnostic study is obtained, the student must complete the requisition form where they must explain the links between the working diagnosis and need for the procedure. They also must answer questions about the sensitivity and specificity of the test, gold standards, contraindications and cost of the procedure. See **Exhibit V** for the Radiology Requisition Form along with the critical thinking components within the form.

The student taking radiographs or ordering diagnostic studies must meet with the radiologist to interpret the results. Sessions are held daily. During the session, the student must present their case including information about patient presentation, rationale for the study, pertinent findings, diagnosis and recommendations. The impact on management must also be discussed. The radiologist then evaluates the performance utilizing the diagnostic studies assessment rubric (AR). Information regarding the competency assessment matrix is tabulated by the office of the Coordinator of Clinical Academics. Every encounter is evaluated by the radiology technician and by the radiologist. Recommendations for remediation are included from both the radiology technician and radiologist. The "read-off slip procedure" (See section H.1.b(1)) is also issued for credit, if applicable. Discussion on technical improvement is done with the radiology technologist and documented on the AR form.

Radiology case types can be obtained through radiology grand rounds, clinic examinations and patient encounters. In order to obtain a case, the student must give radiographic findings, diagnosis, appropriate differential diagnoses and impact on management. Cases are differentiated by comparison of different criteria. Two out of four items must be different in order for cases to be considered valid. Imaging modality, diagnosis category, body region and patient age group (<20, [20,50], >50 yoa) constitute the different items.

The case types are compiled by the Coordinator of Radiology Services and the Coordinator of Clinical Academics. A summary form is placed in the student intern's portfolio.

Patient files:

Since the CCE site teams visit, the management plan forms have been updated. Both student interns and clinicians are now encouraged to use any appropriate diagnostic codes as opposed to the strict list provided by the previous administrations. ICD-9 and CPT coding manuals are readily available to student interns and clinicians.

The passive and active care suite has been operational since May 2005. Cryotherapy, hot packs, therapeutic ultrasound, diathermy, cold laser and electrical modalities are available and performed on many patients. The use of any modality must be documented on the management plan and in the progress notes following each visit. Rationales for use must also be documented and explained to the patient. Training has also been provided to all faculty members in the clinic regarding the different passive care modalities. This was accomplished in June 2005. This information is provided to the students in the curriculum.

The diagnoses are established during the Case Management & Review (CMR) process in which the student intern and clinician of record meet to establish the case management plans. The complete diagnosis is recorded on the Case Management Plan Form, not only the patient's subluxation diagnosis. Clinic administration has not placed any restrictions on diagnostic coding.

The peer review system has been developed and is slowly being implemented to remediate the incomplete management plans, redundant diagnosis and disorderly files. More detail is provided on the peer review process in section H4 of this report.

H.1.b(6) Chiropractic Adjustments:

Credits for adjustments are awarded via the "Credit Slip." The credit slip is a three part form which is filled out by the clinician after an adjustment and/or office visit. The clinician will not award credit for an adjustment if the clinic standards were not met. This can be accomplished by checking the "No credit" item on the form. One part of the credit slip is given to the student intern to return to the front desk for billing purposes. The second part of the credit slip is maintained by the student intern for their records. The third part is retained by the responsible clinician. The responsible clinician will drop their copy of the credit slip into a locked drop box. Before the clinician drops the credit slip they place a secret numerical code on the slip (the clinician copy only). The Coordinator of Clinical Academics retrieves the contents of the drop boxes each morning. The CCA will cross check the secret-coded credit slips with the day sheets from the front desks. Any discrepancies will be investigated by the CCA until resolution. This process is an Anti-Fraud measure to prevent staff or students from entering unearned adjustment credits into the computer system. The adjustment encounter is evaluated with the competency assessment matrices (CAM). Deficiencies revealed in CAM will result in appropriate remediation.

H.1.b(7) Evaluating & Managing Cases of Higher Complexity:

Cases of higher complexity can be obtained on live patients or during Grand Rounds active learning sessions (ALS). They are tracked through the CCA's office via "the read-off slip procedure".

The criteria to establish complexity levels are derived from the Centers for Medicare and Medicaid Services (CMS) guidelines, including elements from both the 1995 and 1997 editions with particular attention the "Medical Decision Making" section shown below:

> C. DOCUMENTATION OF THE COMPLEXITY OF MEDICAL DECISION MAKING
>
> The levels of E/M services recognize four types of medical decision making (straight-forward, low complexity, moderate complexity and high complexity). Medical decision

making refers to the complexity of establishing a diagnosis and/or selecting a management option as measured by:

- the number of possible diagnosis and/or the number of management options that must be considered;
- the amount and/or complexity of medical records, diagnostic tests, and/or other information that must be obtained, reviewed and analyzed; and
- the risk of significant complications, morbidity and/or mortality, as well as comorbidities, associated with the patient's presenting problem(s), the diagnostic procedure(s) and/or the possible management options.

Ref: Centers for Medicare and Medicaid Services (CMS), 1995 Documentation Guidelines For Evaluation & Management Services.

The student must have performed a level appropriate history and level appropriate examination. A diagnosis or clinical impression must be derived and appropriate management plan must be formulated. The student must also complete an application form including a checklist of the criteria and an explanation of the complexity of the case. A progress report updating the prognosis and response to treatment must also be present. A summary form for all cases (live or simulated) can be found in the portfolios. See **Exhibit VI** for criteria for a case of higher complexity.

Pertaining to H.1.b:

** A non-student patient is any patient other than a student of the DCP and a student intern's spouse, parents or children.*

To establish the proper classification of our patients into student and outpatient categories additional questions were added to the patient intake forms (see **Exhibit VII** for the form). Patients are also required to present valid identification (i.e. driver license) on their first visit. Upon obtaining the information on the patient intake forms, the patient is classified according to the CCE standards and the information is recorded in the Raintree software system. The clinician of record will verify via Raintree reports that the patient was classified and recorded into the system correctly. If a status change occurs in the course of care, the clinician of record will notify the staff supervisor to make the appropriate changes in Raintree.

Summary for H.1 concerns

The three part credit slip and its accompanying procedure described above prevent fraud and abuse and also makes documenting and tracking H.1(b) accurate, accountable and verifiable by having three points of information, the Raintree computer ledgers (original part of the credit slip) and the two paper copies. Both the CCA and staff supervisor must reconcile the computer day sheets with the credit slips. The read-off procedure enables the clinic to enforce the quality of the interns' work along with tracking the quantity by bypassing the patient's computer billing ledger and recording this information in a separate computer ledger. The read-off slips are a two part form allowing the student to retain a copy. Reports on quantitative requirements are delivered to students, student advisors and clinic administration every third, sixth and ninth weeks of the quarter allowing for a review of the data. Both the credit slips and the read-off slips are located in the student intern's portfolio allowing the system to be accurate, accountable and verifiable to the Raintree software system.

Student interns exiting into the preceptor program and exiting the clinic program must attend an exit interview with the Clinic Leadership Team (Director of Clinics, Coordinator of Clinical Academics and Radiology Services Coordinator). This interview includes a thorough review of their portfolio for all graduation requirements.

Exhibit II

PCCF CLINIC READ OFF CREDIT

Student Clinic Number	Student Name	Patient Number

- ☐ **AENOP** CMR New OP
- ☐ **AEEOP** CMR Est. OP
- ☐ **AENST** CMR New ST/SF
- ☐ **AEEST** CMR Est. ST/SF
- ☐ **AENOR** CMR New OR
- ☐ **AEEOR** CMR Est. OR
- ☐ **ACBR1** Simulated Lab
- ☐ **ACBR2** Lab Readoff
- ☐ **AXROP** XR Read Off OP
- ☐ **AXRST** XR Read Off ST/SF
- ☐ **AXRCT** Rad Case Types
- ☐ **AHCOP** High Compl. Live OP
- ☐ **ACHST** High Compl. Live ST
- ☐ **ACHSM** High Compl. SIM.
- ☐ **ACT** Case Types

Clinician Number	Clinician Signature	Date of Service

Exhibit III
Case Type Summary Form

	File #	Age of the patient	Joint or organ system affected and main symptom		Acute or chronic presentation	Associated symptoms, conditions or psychosocial factors
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						

Case types

Step 1

The student must be involved in 15 different case types. These case types are determined by possessing either of the following conditions.

☐ Different diagnostic code or diagnosis

OR

☐ Different presenting problems or chief complaints

Step 2

In order to be classified as different, the cases must be different in at least two of the following categories.

☐ Patient age group:
- ☐ Under the age of 20.
- ☐ Between the ages of 20, 50
- ☐ Above the age of 50.

☐ Joint or organ system affected.

☐ Acute or chronic presentation based on onset and/or severity.

☐ Presence and type of associated symptoms, conditions or psychosocial factor.

EXAMPLE:

THE FOLLOWING CASES ARE CONSIDERED DIFFERENT:

58 YEAR OLD MAN SUFFERING FROM DEPRESSION AND ANXIETY PRESENTING WITH A LONG HISTORY OF SEVERE HEADACHES AND NECK PAIN.

VERSUS

25 YEAR OLD WOMAN WITH CHRONIC HEADACHES ASSOCIATED WITH ALLERGIES.

AGE: DIFFERENT
ORGAN SYSTEM: SAME (HEAD)
PRESENTATION: SAME (CHRONIC)
ASSOCIATED SYMPTOMS: DIFFERENT

THE TWO CASES ABOVE WOULD BE CONSIDERED OF DIFFERENT TYPES.

Exhibit IV

Diagnostic Studies Requisition				
Patient's Last Name:	**Patient's First Name:**			**Date of X-ray Exam:**
Patient's Clinic #:	**Sex:**	**Wt:**	**Ht:**	**Date of Birth:**
Patient's Category:	**OP PS SF OR**			

Student Intern: (print)	**Class #:**
Clinic:	
Patient's faculty doctor: (print)	, D.C.
Ordering doctor:	, D.C.

Procedure to order, please list test or body region:

☐ **Lab tests**		☐ **CT**	
☐ **MRI**		☐ **Other**	

PATIENT INFORMATION: (information needed to order)

Working diagnosis: (No orthopedic tests)
History of cancer?
Medical/Surgical History:
Previous Imaging or test results:
Other relevant information:

Codes: _____, _____, _____, _____.

IMAGING RATIONALE:
TO BE COMPLETED BY THE CLINICIAN:
Rationale for ordering the selected test:
Was the patient informed of the cost of the procedure or possible insurance coverage? **Clinician signature and PIN:**
TO BE COMPLETED BY THE INTERN FOR EDUCATIONAL PURPOSES ONLY.
1- What is/are the working diagnosis/diagnoses for this patient? What condition(s) are you specifically looking for?
2- What is the reference (gold) standard used to diagnose this condition or to establish this diagnosis?
3- What is the probability of a positive finding on this test of procedure?
4- How will the result affect the management or prognosis?
5- What will be the impact of a negative test? How will patient management be affected? What actions will you take, if this is the case? What is the next step?
6- What are the patient instructions for this test? Any special preparation needed? Are there any contraindications for this procedure?

Intern name (print):	Intern signature:

Exhibit V

Radiology Requisition					
Patient's Last Name:		**Patient's First Name:**			
Patient's Clinic #:	**Sex:**	**Wt:**	**Ht:**	**Date of Birth:**	
Patient's Category:	**OP PS SF OR**			**Date of X-ray Exam:**	

Student Intern: **Class #:**
(print)

Clinic:
Patient's faculty doctor: **(print)** , D.C.
Ordering doctor: , D.C.

Series	View	CM	kVp	mAs	Filter	Series	View	CM	kVp	mAs	Filter

PATIENT INFORMATION: (information needed by the radiologist and radiology technician)

Working diagnosis: (No orthopedic tests)
Neurological Findings?
Suspicion of Fracture/Dislocation? Describe event.
History of cancer or possible infection?
Medical/Surgical History:
Previous Imaging:
Other relevant information:

Codes: _____, _____, _____, _____.

I hereby authorize Palmer College of Chiropractic Florida and whomever the licensed clinician or radiographic technologist may designate as his/her assistant to take x-rays.

Signature: _____ **(or signature of guardian)**
Date: ___/___/_____

Women patient must complete the following statement at the time of their x-ray appointment.
As a general rule in radiation safety is that women of child-bearing ages should be x-rayed within 10 days of the onset of their last menstrual period, whenever clinically feasible.
Please complete this statement:
My last menstrual period began on ___/___/_____.
I am pregnant: □ **yes** □ **no** □ **maybe**
I have had a hysterectomy: □ **yes** □ **no** **Date:** ___/_____/_____

Signature: _____ **(or signature of guardian)**

IMAGING RATIONALE:

TO BE COMPLETED BY THE CLINICIAN:

Rationale for ordering radiographs for each body region:

_____ **PIN:** _____
Ordering clinician signature

TO BE COMPLETED BY THE INTERN FOR EDUCATIONAL PURPOSES ONLY.

1- What is/are the working diagnosis/diagnoses for this patient? What condition(s) are you specifically looking for on these radiographs?

2- What is the reference (gold) standard used to diagnose this condition or to establish this diagnosis?

3- What is the probability of a positive finding on these radiographs?

4- How will the result affect the management or prognosis?

5- What will be the impact of a negative test? How will patient management be affected? What actions will you take, if this is the case? What is the next step?

Intern name (print): **Intern signature:**

Exhibit VI

Cases of high complexity criteria

In order to obtain a case of high complexity credit, the student must perform all of the following steps.

- ☐ Perform the appropriate examination procedures. (99202, 99203 levels)
- ☐ Order / perform the appropriate diagnostic studies ***or*** explain why they are not indicated.
- ☐ Design the appropriate management plan.
- ☐ Perform a report of findings, if appropriate.
- ☐ Present a completed file.

Case of high complexity credit can be applied with the clinician at the following times:

☐ Patient is referred or co-managed and the results are incorporated into the management plan or file.

OR

☐ Patient has reached maximal medical improvement and released from care or put on a wellness program.

OR

☐ Patient drops out of care but has been seen for a minimum of 5 visits.

OR

☐ Patient is actively under care but will be transferred to another intern just before graduation. The patient must have been seen for a minimum of 5 visits.

Cases of high complexity

In order to qualify as a case of high complexity, the following criteria must be met:

☐ The appropriate form must be filled out and the case must be discussed with the assigned clinician. (Application form and case summary for both live and simulated patients)

In addition the case must at least correspond to one of the following scenarios:

☐ The **condition** affects two or more organ system or body areas.

OR

☐ A referral or co-management is required.

OR

☐ The prognosis is guarded, the condition is not expected to resolve completely, and there is a risk of residual functional impairment.

OR

☐ The condition is complicated by psychosocial factors.

OR

☐ There is necessity to order, review and analyze previous records, diagnostic tests or other ancillary procedures.

OR

☐ There is necessity to order stress views, advanced imaging procedures, clinical laboratory tests or other ancillary procedures.

OR

☐ The treatment or healing of the condition is adversely affected by a pre-existing, permanent or chronic condition.

OR

☐ There is a history of cancer or associated surgery.

OR

☐ There are more than three differential possibilities for the condition.

OR

☐ There are more than three differential possibilities for the condition.

EXHIBIT VII
PATIENT INTAKE INFORMATION

PATIENT NAME: **FILE #:** **DATE:**

FOR OUR RECORDS AND FOR YOUR CONVENIENCE PLEASE CIRCLE "YES" OR "NO" TO THE FOLLOWING QUESTIONS.

1. ARE YOU CURRENTLY A PALMER DC STUDENT?
YES NO

IF SO, PLEASE INDICATE YOUR ANTICIPATED START DATE : /

CLASS NUMBER:

2. ARE YOU THE SPOUSE OF A PALMER FLORIDA DC STUDENT?
YES NO

3. ARE YOU A DEPENDENT CHILD OF A PALMER FLORIDA DC STUDENT?
YES NO

4. ARE YOU THE PARENT OF A PALMER FLORIDA DC STUDENT?
YES NO

5. ARE YOU AN EMPLOYEE OF PALMER FLORIDA?
YES NO

6. ARE YOU THE SPOUSE OF AN EMPLOYEE AT PALMER FLORIDA?
YES NO

7. ARE YOU THE DEPENDENT CHILD OF AN EMPLOYEE AT PALMER FLORIDA?
YES NO

8. ARE YOU AN ALUMNUS OF PALMER COLLEGE?
YES NO

9. ARE YOU A CHIROPRACTOR?
YES NO

10. ARE YOU UNDER THE AGE OF 18?
YES NO

11. ARE YOU A FLORIDA MEDICAID PATIENT?
YES NO

12. WILL YOU BE A PATIENT OF YOUR CHILD, PARENT OR SPOUSE?
YES NO

Comments:

PATIENT SIGNATURE _____ DATE: ____/____/_____

H.1.g. The DCP must provide ongoing opportunities for learning, which must include activities based on current active cases with which the student is involved and which may also include small group case-based discussion, observations, directed assignments or other reasonable alternatives. These opportunities must allow students to assume increasing responsibility, under appropriate supervision, according to their level of training, ability and experience, and to participate in continued doctor-patient relationships.

h. The DCP must have a curriculum management plan that ensures:

(1) an ongoing clinical training review and evaluation process which includes input from faculty, students, administration and other appropriate sources;

(2) competencies are periodically reviewed and updated and that the clinical training is evaluated as to its effectiveness in imparting these competencies; and

(3) student participation is included in the evaluation of the effectiveness of clinical training integration with the overall DCP education.

i. There must always be an adequate number of clinic faculty who are immediately available in the clinical setting to oversee, supervise, and take responsibility for student delivery of patient care services.

The COA is concerned that the DCP has not established adequate faculty staffing, training and assessment of interns to ensure that level-appropriate feedback is regularly delivered to interns. During the status review meeting, PCC representatives explained a number of improvements that have taken place in the clinical program since the site visit including the addition of some of the planned faculty hires and the Clinic Management Committee's work toward the development of an on-going clinical training review and evaluation process. PCC must demonstrate the implementation of these planned improvements and activities as detailed in the response to the site team report and provide evidence of meeting the above standards.

PCCF Response:

1.g. Each clinic class has three hours of Active Learning Sessions (ALS). Within ALS modules, current interesting active cases are reviewed. Clinic faculty doctors report these interesting cases in the Clinic Management Committee meeting. Once the educational value of the case is verified, a lecturer with appropriate content expertise is schedule to conduct the session. The speaker list also includes academic faculty.

1.h. The Clinic Management Committee (CMC) currently meets weekly to assess clinic operations and the educational experience of the interns. The committee is composed of clinic faculty doctors, academic faculty with expertise in the clinical sciences and clinic management operations, as well as student interns. The Director of Clinics serves as the permanent chair. Any committee member may place an item on the agenda for the committee to review. The committee's function is to continually monitor the educational and operational aspects of the clinic system.

The CMC receives reports from various areas of the clinic for review, including survey data, entrance and exit examination results, CAM data and direct experience. The CMC also reviews the evaluation tools such as CAM for effectiveness. The CMC may also request the presence of the Level I or Level II Director or the Academic Dean in matters that involve the academic programs.

1.i. Currently PCCF clinics employ 11 clinic faculty doctors, a Coordinator of Clinical Academics (CCA), a Radiology Services Coordinator and a Director of Clinics. Six of the clinic faculty doctors are stationed in the outpatient clinic, four in the Campus Health Center and one in the outreach clinic. Currently 176 student interns are enrolled in the clinic system. PCCF is expanding its outpatient clinic to include two additional Patient Care Modules adding 8 treatment rooms and two examination rooms. By January 2006, the clinics will add at least three additional clinic faculty doctors. Increasing treatment and examination rooms and adding additional faculty will significantly approve the clinic's operations to meet and/or exceed the demands. The 13th quarter preceptor rate will be approximately 30-50%.

H.3. Student Assessment and Evaluation

a. The DCP must utilize a system of student assessment and evaluation that is based on the goals, objectives, and competencies established by the DCP, as well as those defined by the CCE Standards and appropriate to entry level chiropractic practice. The system must clearly identify the summative and formative methods used, and the level of performance expected of students in the achievement of these objectives and competencies.

b. Feedback to the student must be useful and accurate. Informal or formal feedback sessions should occur regularly, as soon as possible after an assessment has been made.

c. Assessment tools must be compatible with the domain being assessed:

(1) knowledge must be assessed using appropriate written and oral examinations as well as direct observation;

(2) psychomotor skills must be assessed by direct observation;

(3) communication skills must be assessed by direct observation of student interactions with faculty, colleagues, and patients and their families. Skills may also be assessed by review of any written communications to patients and colleagues including clinical reports, and referral or consultation letters;

(4) interpersonal skills must be assessed by reviewing performance in collaboration with staff, members of the patient care team, and consultations with doctors of chiropractic and other health care providers as appropriate;

(5) attitudes must be assessed by interviews, observations, or evaluations with peers, supervisors, clinic faculty, and patients and their families; and

(6) competence in utilizing the acquired clinical data to arrive at a diagnosis, and develop a case management plan, must be assessed using appropriate written and oral examinations as well as direct observation.

d. The DCP system of assessment and evaluation must provide for the identification of deficiencies in student knowledge, attitude, or skills.

e. The DCP must provide:

(1) an appropriate process for students to review and appeal identified deficiencies in knowledge, attitude, or skills.

(2) a formal system of remediation.

f. Student assessment systems must :

(1) have a clear organizational structure for assessment;

(2) have a clear description of the role of faculty in assessment and how assessment information will be used in student evaluation;

(3) track and document student assessment and progress through the educational program including the integration of classroom performance, clinical performance, and the overall attainment of clinical competencies; and

(4) evaluate the effectiveness of assessment tools.

H4. Quality Patient Care

The DCP must:

a. Conduct a formal system of quality assurance for the patient care delivery that demonstrates evidence of:
   (1) standards of care with measurable outcomes criteria and ongoing review of a representative sample of patients and patient records to assess the appropriateness, necessity and quality of the care provided; and
   (2) patient advocate grievance policies, procedures, outcomes and corrective measures.

b. Include the following characteristics in the quality assurance system:
   (1) a clear organizational structure for quality assurance.
   (2) a listing and description of each area and item (indicator) of quality assurance that is measured including:
      (a) how the item is measured;
      (b) how frequently the item will be measured;
      (c) how data will be assessed to identify need for improvement;
      (d) how improvement efforts will be determined;
      (e) how improvement efforts will be followed to ensure implementation and improvement; and
      (f) how the effectiveness of implemented changes/improvements will be assessed on an ongoing basis.
   (3) methods for communicating quality assurance results to the clinic and larger DCP community.

c. Provide a written statement of patients' rights to all students, faculty, staff and each patient.

d. Provide ongoing training in basic life support and management of common medical emergencies for all students and supervising facility involved in patient care.

e. Maintain and follow written policies and procedures for the safe use of ionizing radiation.

f. Follow federal, regional, state, and local requirements for clinical/laboratory asepsis, infection and biohazard control and disposal of hazardous waste.

g. Follow federal, regional, state, and local requirements regarding the confidentiality of patient information.

h. Meet all state and community standards for chiropractic assessment and care, billing, and financial transactions.

i. Monitor and enforce all professional and legal requirements, inherent in the responsibilities of a licensed doctor of chiropractic.

H5. Required Clinical Competencies

The COA noticed the site team's report of substantial progress made in the development of a system-wide outcomes assessment process. During the meeting with the COA, PCC representatives discussed progress made on the various components of its developing student assessment system on the Florida campus. The COA is concerned that insufficient evidence exists at this time to demonstrate achievement of these competencies and standards. The COA requires an update on PCCF's compliance with these standards providing supporting evidence in the Progress Report requested at the end of this communication.

PCCF RESPONSE: H.3. Student Assessment and Evaluation

Students enter the outpatient clinic system only after successfully completing all courses in quarters 1 through 9. "Introduction to Clinic" is the first official clinic course. It is offered in ninth quarter. The course has one lecture hour, and the remainder of the time is spent seeing patients in the campus health center (CHC). This allows the student to get familiar with clinic procedures and protocols prior to entering the outpatient clinic. It also allows an assessment period to prevent non-qualified students from entering the outpatient clinic until they are approved. The students are assessed through the Competencies Assessment Matrices (CAM's) which uses multiple domains for assessment including direct observation, written and oral examinations, and assignments. CAM is discussed in detail in section H5 of the report. Deficiencies revealed in CAM will result in appropriate remediation.

The student must also pass the Clinic Entrance Examination-CE9. This examination consist of 5 parts: history-taking, examination and diagnosis, chiropractic technique, radiology diagnosis and radiographic positioning and a written short answer examination. The questions for the written section are derived from selected chapters from the textbooks *Principles and Practices of Chiropractic* by Scott Haldeman and *Conservative Management of Cervical Spine Syndromes* by Donald Murphy. Sections are graded individually. The student must earn 70% or greater on each section to enter the outpatient clinic. If a student fails more than three sections, they must re-take the entire five part examination. Failure of 1 to 3 sections results in the student re-taking the failed

section(s). Once receiving a failing grade, a student is enrolled in the remediation program, and a re-take examination is offered in the same quarter. Failure to pass the re-take will prevent the student from entering the outpatient clinic. Failure to pass the course "Introduction to Clinics" will also prevent the student from entering the outpatient clinic.

Once entering outpatient clinic, the student intern must pass each clinic course. All requirements are clearly posted in the syllabi and easily accessible through WebCT. The student interns are assessed via assessment rubrics every quarter. In the twelfth quarter, student interns must pass the Clinic Exit Examination. This examination is based on Part IV of the National Board Examination. The grade for this examination is an average of all sections, and one score is received for the entire examination. Failure of this examination will result in remediation. A re-take examination will be administered later in the same quarter. Passing the CE12 is a graduation requirement. Failure to pass the CE12 will also prevent a student intern from entering the preceptor program in 13th quarter. Both the CE9 and CE12 grades are components of the course grade for corresponding clinic courses. Both examinations enable PCCF clinics to assess additional CCE clinical competencies that are more compatible to a written format. See **Exhibit VIII** for a summary report and **Exhibit IX** for two example questions from a CE12 examination assessing CCE competencies suitable to a written format.

PCCF clinics assess student performance in multiple ways. The Competency Assessment Matrix (CAM) has been developed from the 14 CCE Clinical competencies (including H6) as discussed in detail in section H5 of this report. The CAM factors the different competency and performance levels to evaluate the student interns. The CAMs are readily available to all student and faculty at PCCF as well as how they are assessed.

The PCCF clinic curriculum and evaluation process provides a formal system of remediation along with an appeals process as detailed below:

Objectives:

- To provide student interns remediation of weaknesses in their clinical skills.
- To ensure the quality of patient care.

Areas of remediation: (Based on the CCE Competencies)

- History Taking
- Physical Examination
- Neuromusculoskeletal examination
- Psychosocial Assessment
- Diagnostic Studies (including x-ray positioning)
- Diagnosis
- Case Management
- Adjustment or Manipulation
    - Palmer Package Techniques
    - Elective Techniques
    - Proper use of equipment
- Emergency Care
- Case Follow-Up and Review
- Record Keeping
- Doctor-Patient Relationship
- Professional Issues
- Laboratory
- Non-Adjustive Procedures
- PCCF Clinics policies, protocols and procedures.

General Procedure:

An intern can be referred to the remediation program by a clinician, adjunct clinician, radiologist, the Coordinator of Clinical Academics (CCA), the Director of Clinics, and in the case of x-ray positioning, the radiology technician (referrers).

An intern might be referred for remediation if a deficiency is directly observed in a particular area of competence, knowledge, attitude and skills (Competency Evaluations) or while reviewing documentation (i.e., file review, critical thinking forms, ALS projects, etc.). Interns demonstrating a weakness in any area of Entrance or Exit Proficiency will be referred to the remediation program. Interns may also self refer to the remediation program for help in a self-diagnosed weakness.

Procedure for un-appealed remediation:

If an intern is being referred to the remediation program, a three-part Remediation Referral Form (RRF) will be filled out by the referrer **Exhibit X**. The RRF will include the area(s) of deficiency and details of the deficiency. After the Remediation Referral Form is completed, the referrer will detach the last page (pink) and give it to the intern. It will be the intern's responsibility to contact the assigned remediation instructor. The intern will retain their copy and submit it to the remediation instructor at the time of remediation. The top two copies will be placed in a secure drop-box located in the adjunct faculty office. The Coordinator of Clinical Academics (CCA) will retrieve the contents of the drop-box each morning. The CCA will make a copy of the RRF, file it, and track its status. The CCA will distribute the top (white) copy of the RRF to the intern's faculty advisor and the second (yellow) copy to the remediation instructor. The intern's faculty advisor will file the interns RRF in the intern's file they maintain.

After the intern successfully completes the assigned remediation, the instructor will complete their section of the RRF on the student's (pink) copy. The student should retain the form for their personal record. The yellow copy of the RRF will also be completed by the instructor. The instructor will copy the completed RRF and maintain the copy in the appropriate remediation file according to the

recognized categories. The completed yellow RRF will be submitted to the CCA. The CCA will match the yellow copy of the RRF with the copy the CCA has retained earlier. The CCA will check for completeness and file the two copies in the intern's portfolio with all supporting documentation (i.e., assessments, projects examinations, etc.). The CCA will make a copy of the completed RRF with all its supporting documentation and distribute it to the intern's faculty advisor. The faculty advisor will match the completed RRF with the white copy in the interns file and retain both forms and all supporting documentation.

The intern will have two weeks (operational weeks) to successfully complete the remediation program. Failure to complete the remediation or contact the CCA regarding the remediation will result in suspension from all clinic activities until the remediation is successfully completed. The CCA reserves the right to extend the time limit if special circumstances arise.

If the student was suspended from clinic activities, once the faculty advisor receives the completed yellow page of the RRF from the remediation instructor, the student will immediately be allowed to resume all clinic activities.

Procedure for an appealed remediation:

A two-part Remediation Appeal Form (RAF) should be completed if the intern wants to appeal the remediation. The bottom (pink) copy is given to the student; the top (white) copy is attached to the RRF and dropped in a secure drop box. When the CCA retrieves these documents, the CCA will distribute the documents to the chairmen of the Remediation Appeals Committee (RAC). The chairmen will notify the referrer and the intern with a hearing date. After the proceedings, the chairmen of the committee will complete their section of the form which reflects their decision and submit it the CCA.

If the appeal is denied, the CCA will distribute the forms as previously detailed. If the appeal is upheld, the CCA will distribute the completed RAF to the intern's faculty advisor and the referrer.

If a student is referred to the remediation program for the same deficiency three times, the student will be referred to the Coordinator of Clinical Academics for further evaluation. The CCA will consult with the intern's faculty advisor and/or the Clinic Director to assess the situation and develop a course of action and further remediation for the intern.

Failure to successfully complete any outstanding remediation by the end of the quarter will result in an incomplete grade for the intern's current Care Track course.

Remediation:

The remediation will be based on the specific deficiency identified. The remediation and assessment may consist of but is not limited to reading assignments, research, instruction, OSCE type examinations, written examinations (short answer, essay, multiple choice and computer-based testing), oral examination, auditing classes, and observations.

Quarterly Reports:

The CCA compiles statistics on the remediation program quarterly which reflects trends in strengths and weaknesses in the clinic DCP and submits the results to the Clinic Director and clinic faculty. The Clinic Director submits the report to the Clinic Management Committee for analysis and recommendations. The Clinic Director also distributes the report to the President and Academic Dean for review. The Academic Dean distributes the report to the academic faculty for assessment.

The entrance and exit examinations along with CAM are assessed by the Clinic Management Committee quarterly to examine the effectiveness of these tools.

Exhibit VIII
Clinical Exit Examination Summary Report
Class 054

The first clinic exit examination was administered on August 4th, 2005. It consisted of an "OSCE" type of clinical examination and a radiology practical examination. Both sections of the test were modeled after the NBCE part IV examination.

Test Results:
The students performed well. The overall test average was 83%. Two students did not obtain satisfactory scores. They were given various activities to perform through the remediation program and were retested following the completion of the assignments. The performance of both students improved and they were given passing grades.

On the history stations, the combined average was 79%. Most students obtained the history by following the OPQRST format. They demonstrated adequate communication skills and thought process.

The average for the physical examination station was 83%. The students did well when performing the maneuvers (μ=91%) but seemed to experience more difficulty interpreting the results (μ=75%).

The neuromuscular examination stations average was 84%. Again, the students did very well in performing the maneuvers (μ=90%) but seemed to experience more difficulty interpreting the results (μ=80%) and linking all the findings to differential diagnoses.

This drop in averages for the diagnostic and follow-up questions can be attributed to multiple factors such as the difficulty of the questions themselves, the question style or could be due to a real weakness in their education. This first cohort of students have experienced a multitude of curricular changes so conclusions are difficult to make at this point based on this test only.

The average score for the radiology section was 79%. This score is comparable to the previous test averages for this particular class.

Surveys

An 8 question survey was administered after the examination. The survey asked about multiple aspects of the test, from content to test facilities. The questions were answered using a 5 point Likert scale. 29 surveys were obtained. One survey was rejected because the answers were not legible. One student was absent for the test and did not complete the survey at the time of the make-up examination.

The surveys results showed that the students were extremely satisfied with the test in general. The mean scores are extremely high for all questions and the range is short.

Column	n	Mean	Std. Dev.	Median	Range
overall exp	28	4.32	0.66	4	2
content	28	4.50	0.69	5	2
flow	28	4.96	0.19	5	1
instructions	28	4.60	0.57	5	2
examiners	28	4.86	0.36	5	1
videographers	28	4.96	0.19	5	1
patients	28	4.96	0.19	5	1
rooms	28	4.68	0.72	5	3

Exhibit IX

Additional questions

Your answers will be used to evaluate the following clinical competencies:

Doctor-patient relationship
Psychosocial skills
Case management

The following scenario pertains to the patient in Station 1.

During the interview, the patient was shy and seemed to have low self-esteem. During the examination of this patient, you noticed multiple bruises. On the follow-up visit, she now has a black eye. The story of how this happened is not credible.
What would you do next? Describe your course of action.

Additional questions

Your answers will be used to evaluate the following clinical competencies:

Doctor-patient relationship
Psychosocial skills
Case management

The following scenario pertains to the patient in Station 2.

This patient seemed very depressed during the interview. She confided that sometimes she thoughts about ending her life.

What would you do next? Describe your course of action.

Could you discuss this with the patient's family or spouse?

Exhibit X
REMEDIATION REFERRAL FORM

Interns Name: _____ **Matric #:** _____

Referrer Name: _____ **Interns Faculty Advisor:** _____

Date of Referral: _____

Area(s) of Deficiency: (check one or more areas)

☐ History Taking	☐ Physical Examination	☐ NMS Examination
☐ Psychosocial Assessment	☐ Diagnostic Studies	☐ Diagnosis
☐ Case Management	☐ Adjustment	☐ Emergency Care
☐ Case Follow-Up& Review	☐ Record Keeping	☐ Doctor-Patient Relationship
☐ Professional Issues	☐ Laboratory	☐ Non-adjustive Procedures
☐ Clinic Policy/Procedures	☐ Other _____	

Details of Deficiency(s): (Include patient file # if applicable and/or list any attachments)

_____

_____

_____

_____

_____

_____

Remediation Referral Appealed: (Circle One) Yes No

(If yes, you must complete a remediation appeal form and follow the Remediation Appeals Procedure. If no, remediation must be successfully completed within two weeks or you will be suspended from all clinic activities until successful completion of the listed deficiency(s))

Signature of Intern: _____ Date: _____

Signature of Referrer: _____ Date: _____

To be completed by remediation instructor only:

The above mention student has successfully completed their remediation. The details of the remediation have been attached *(including copies of examination forms, projects, essays etc.)* to this form.

Name of Remediation Instructor: _____

Remediation Instructor's signature: _____

Date of completion: _____

PCCF RESPONSE: H.4. Quality Patient Care

PCCF clinics have established a peer review committee for quality assurance for patient care delivery. The chair of the committee is K. Jeffrey Miller, D.C., D.A.B.C.O., a PCCF faculty member and author of the book Practical Assessment of the Chiropractic Patient. Dr. Miller is certified by Logan College as a Utilization/Peer Reviewer and has served for 8 years on the Kentucky Department of Worker's Compensation Chiropractic Peer Review Committee, and 3 years on the Kentucky Board of Chiropractic Examiners Peer Review Committee. He has also taught Utilization and Peer Review, a mandatory 6 hour peer review license renewal course in Kentucky, for the Kentucky Associations and Board. In addition, he worked for multiple insurance carriers independently for 8 years (1994-2002) as a peer reviewer and has consulted on 40 plus cases for NCMIC since 1996.

The committee is composed of three experienced peer reviewers and one alternate within the PCCF community. Members of the committee randomly review at least five clinic patient files per month. Patient files are assessed for appropriateness, necessity and quality of patient care and also compared to a standard clinic file. The committee also adopts the use of disability and outcome assessment tools; pain scales to assist in measuring patient progress; use of standard orthopedic, neurological and physical examination procedures to assess initially; and the changes in these procedures on follow up evaluations to measure objective improvement of the patient; and adopts standards for the use of ionizing radiation. The committee reviews files for completeness, accurate use of abbreviations, history content, appropriateness of the examination as related to the history obtained, the accuracy and appropriateness of the diagnosis as compared to the history and examination findings. The plan of care is assessed based on the frequency and duration of care, the types of care, patient instructions, referrals, ancillary procedures utilized, home care instructions, follow up evaluations, signs of management plan modification with progression of care and evolution of patient need. The doctor's transition of the patient to wellness

care or complete release is also assessed. The committee determines if the documentation complies with Florida State laws (Chapters 456, 460 and 64B2) and Center for Medicare and Medicaid Services 1995 Documentation Guidelines for Evaluation and Management Services, and the current AMA CPT coding guidelines. The chair forwards a report to the Director of Clinics for review and intervention if necessary. Areas of deficiencies are followed-up by the Director of Clinics. The Director of Clinics forwards a report on clinician and student performance to the Academic Dean.

Below are some examples from the "Utilization/Peer Review Check List" (see **Exhibit XI** for a complete list of peer reviewed items).

- Does the level of examination match the level of the complaints?
- Do the findings of the history and examination justify the imaging ordered?
- Does the frequency of visits match the diagnosis?
- Are the total number of visits to date consistent with the complaints/diagnosis and original treatment plan?
- Have any inconsistencies in the above treatment plan factors been addressed?
- Is the patient's frequency of care decreasing as the patient progresses?

Efforts are made by the committee to educate students about the process and the reasoning behind the process. Efforts are also made to assure that the principles learned will carry over into private practice.

Along with the peer review system mentioned above, PCCF clinics utilize a variety of surveys to obtain pertinent data to monitor the quality of the procedures and protocols along with the general environment of the clinic system. Surveys include a patient satisfaction survey, intern-clinician survey, clinic entrance and exit examination surveys, administration surveys, and intern exit surveys. These research reports are reviewed by the Clinic Leadership Team (CLT). The CLT analyzes the reports and presents them to the Clinic Management Committee

(CMC) for review and analysis. The CLT and CMC then meet to discuss methods to improve any deficiencies including time-frame for improvement and follow-up procedures. The CLT and CMC jointly produce a report that includes the initial data and the methods of improvement and deliver it to the Academic Dean. The Academic Dean decides how that data will be distributed and utilized within the larger DCP community.

PCCF clinics have a written statement of patients' rights and responsibilities in accordance with Florida Statutes Chapter 381(026) Florida Patient's Bill of Rights and Responsibilities. The pamphlet is given to all patients on their first visit to the clinic. It is also distributed to all faculty, students and staff along with being posted inside the clinic facilities.

PCCF clinics have a formal patient grievance protocol which include a patient advocate see **(Exhibit XII)** for details.

Palmer College requires faculty and staff of the clinic system to maintain active CPR cards in Basic Life Support as well as additional training to use the Automated External Defibrillator (A.E.D). The Basic Life Support training is done on campus by an American Heart Association certified instructor. The participants in this course are certified for two years.

The following is the process of how a medical emergency is facilitated in the Palmer College clinic system. If an emergency takes place, a staff or faculty member immediately notifies the director's office of the emergency and contacts 911. This will start the chain of survival which includes the following steps:

- Early access to advanced care
- Early CPR if necessary
- Early defibrillation
- Early advanced care.

The chain of survival was established by the American Heart Association to save lives until early advanced care arrives on the scene.

Immediately following the emergency, an incident report will be generated. Following this event, a debriefing session with the involved parties will be conducted to discuss if procedures were met and if improvements are necessary. The reports will be kept in the director's office for patient confidentiality.

The Palmer College of Chiropractic clinic system follows the regulations set forth by the federal government and as required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The U.S. Department of Health and Human Services (HHS) released final federal regulations that govern use and disclosure of personally identifiable health information in December 2000 (HIPAA Privacy Rules).

As an institution, PCCF controls access to data by appropriate mechanisms such as passwords and automatic tracking of file creation, modification and deletion. Three major components ensure data integrity, confidentiality and access; they are technical, physical and administrative safeguards. The technical safeguards prevent unauthorized use of company computers. Passwords are required to be changed every 90 days as well. Access to PHI (Personal Health Information) is also restricted. In addition, all staff and faculty members are required to log off company computers when he or she leaves the workstation. The Physical safeguards revolve around limiting access to facilities that house PHI. Lastly, administrative safeguards are in place. Mandatory training modules are given to staff and faculty of every department on a yearly basis. Topics included federal, state and local regulations regarding health information. The PCCF clinics have also adopted multiple procedures to ensure the safety of PHI and compliance with the HIPAA guidelines. Sign in sheets, locked file and x-ray storage are examples of new procedure in place to ensure information safety. The sign includes a peel away sticker that is applied to the portion of the credit slip retained for administrative purpose, eliminating possible breeches of patient confidentiality. Palmer College enforces security awareness, information and

access management training to prevent any liabilities that the college may face, including with all venders that must enter the clinic building.

To meet all state and community standards for chiropractic assessment and care PCCF clinics have adopted the 1995 Documentation Guidelines For Evaluation & Management Services along with the current AMA CPT coding guidelines and the Florida Statutes in Chapters 456, 460 and 64B2 with special attention to 64B2-17.0065 Minimal Record Keeping Standards and 62B2-17.005 Exploitation of Patients for Financial Gain. To ensure proper CPT coding, the interns are required to complete an Evaluation and Management Coding Worksheet (see **Exhibit XIII**). This worksheet must be approved by the clinician of record before the transaction is entered into are billing software system. (See **Exhibit XIV** for an example of how the above standards have been translated into the clinic SOAP notes.)

PCCF clinics provide ongoing training in ethics and professional boundaries with its Active Learning Sessions (ALS) modules which include: Florida Laws and Rules as well as Risk Management. Regular guest speakers, such as Trudy Vogel D.C. from the Department of Health, Disciplinary Board of Chiropractic Medicine, share information with interns on the common complaints filed against chiropractors in the state of Florida and how to avoid them. Ethics and professional boundaries are also reviewed.

PCCF RESPONSE: H.5. Required Clinical Competencies

The previously used "QE" system was replaced by the new assessment rubrics (AR) and the Competency Assessment Matrix (CAMs). All 14 CCE competencies are assessed using this new system. Each type of AR is situational and includes specific competencies being assessed. They are based on specific activities performed during an encounter with a patient or doctor.

An AR has been created for the following events:

1. New patient visit. This AR includes elements of required competencies on history taking **(Exhibit XV)**, exam procedure selection, performance on examination, quality of diagnosis, case management, doctor-patient interaction, psychosocial factors, etc...
2. Update and review. This AR is designed to evaluate components performed during a "re-evaluation visit". Items evaluated are generally similar to the new patient rubric.
3. Diagnostic study review. This AR evaluates both technical and diagnostic components of a radiology encounter or any other diagnostic studies. Patient-doctor interaction is also evaluated by the radiological technician. An example is shown in the Diagnostics: Radiology and Diagnostic test encounter, provided in **Exhibit XVI.**
4. Routine visit. The adjustment procedure, documentation, case management and doctor-patient interaction are evaluated with this AR.

Each rubric is completed by a clinician following the encounter. A copy of the assessment is given to the student for immediate feedback. The clinician is also at liberty to discuss the evaluation further or to make a referral to the remediation service.

The ARs are scored on a scale from 0-11 spanning four levels of competence (1-4). Acceptable scores vary in according to the student's academic level. Students in their last quarter need an average score of 8 on 11 to pass. A student in their first clinic quarter would only require 4 on 11 for the same grade.

The AR scores are incorporated into a large matrix for each student: the Competency Assessment Matrix (CAM). This matrix allows for monitoring of the student's progress for all the competencies. This information is forwarded to the student's advisor twice per quarter. The data is compiled and analyzed. Areas of strengths and weaknesses are identified and communicated to the Dean for

distribution. The information is displayed in a large table called the Competency Assessment Matrix (CAM). An example is provided in **Exhibit XVII**.

A review of the COA's major concerns for item H.5 is provided here:

HISTORY and PHYSICAL EXAMINATION

Regarding absence of mechanisms to evaluate the history and physical exam competencies, multiple steps have been incorporated into the clinic forms and following the encounters to insure a closer follow-up. Worksheets are also included to insure that the student's thought process is documented and evaluated for the selection of the examination procedure required, but also to insure that the clinician provides adequate guidance as well.

PSYCHOSOCIAL FACTORS

Psychosocial aspects of patient care are evaluated with the ARs in the appropriate situations. Student interns are also evaluated during simulated cases (clinic entrance and clinic exit examination).

DIAGNOSTIC STUDIES

Before any diagnostic study is performed, a requisition form must be completed and signed by the clinician and intern of record. This form is utilized to ensure that the intern understand the rationale for the test being ordered. No study is performed routinely on any patient of the PCCF clinics. Examinations are performed when criteria establish medical necessity as stated in the Florida legislation.

DIAGNOSIS

Worksheets and multiple stop points have been instituted. They allow the intern to integrate the information obtained from the patient during the history, physical exam and adjunctive procedures into a working diagnosis. Clinical impressions must be derived before any procedure is performed.

CASE MANAGEMENT

Since the opening of the therapy suite, management plans frequently include passive care therapies. The prescription and casting of orthotics is also

encouraged. Since November 2005, the PCCF clinics are an authorized distributor for dietary supplements.

CHIROPRACTIC ADJUSTMENT

Encounters are evaluated using the ARs. Treatments are evaluated throughout the clinical experience.

EMERGENCY CARE

Competencies are assessed during the curriculum with written tests and practical examinations. Skills and knowledge are also evaluated during simulated cases and clinic examinations during the clinical experience. Worksheets allow evaluation of this competency on a regular basis. The clinician and intern of record have to ensure that the patient is in adequate condition in order to be released.

CASE FOLLOW-UP

Each visit, the patient is asked about the presence of new symptoms or exacerbations of existing complaints. "Have you had any accidents, injuries or trauma since your last visit? Do you have any new complaints or symptoms since the last visit?" After circling yes or no, the patient is asked to sign the daily notes (**Exhibit XIV**). If a positive answer is given, a "further evaluation worksheet" will be completed. The severity of the situation will dictate the response. Additional documentation of the complaint in the daily note may be all that is necessary, or a full examination may need to be accomplished.

RECORD KEEPING

Major improvements have been made in terms of record keeping. Further ameliorations are expected with the instauration of the formal file review process. More information is available in the H4 section of this report.

DOCTOR-PATIENT RELATIONSHIP & PROFESSIONAL ISSUES

The doctor-patient relationship is observed with every encounter. Components of this competency are integrated in every assessment rubric. The professional issue component is addressed during case simulations and through assignments. A portion of the ALS modules are allotted to research methods and professional correspondence.

Exhibit XI

Utilization/Peer Review Check List

	CLINICAL FACTORS	PASS	FAIL
	Initial Findings		
1.	Does the level of history match the severity of the complaints?		
2.	Does the level of examination match the level of the complaints?		
3.	Do the findings of the history and examination justify the imaging ordered?		
4.	Do the history, exam and imaging findings support the diagnosis rendered?		
	Treatment Plan		
5.	Does the plan include short, mid term and long term goals?		
6.	Has active and passive care been utilized?		
7.	Does the frequency of visits match the diagnosis?		
8.	Are the areas adjusted consistent with the complaints/diagnosis?		
9.	Are the PT modalities utilized consistent with the complaints/diagnosis?		
10.	Are the active/rehabilitative methods of care consistent with the complaints/diagnosis?		
11.	Have home care methods been recommended/explained/monitored?		
12.	Have progress exams been performed in a timely and appropriate manner?		
13	Were appropriate referrals (if necessary) made?		
14.	Are the total number of visits to date consistent with the complaints/diagnosis and original treatment plan?		
15.	Has progress to date been as expected?		
16	Have any inconsistencies in the above treatment plan factors been addressed?		
	Daily Care		
17.	How is the quality of daily SOAP notes?		
18.	Is the patient's frequency of care decreasing as the patient progresses?		
19.	Is the intensity of the patients care decreasing as the patient progresses?		
20.	Is the patient moving from active to passive and/or maintenance care as planned?		
	Overall Completeness		
21.	Is the order, clarity and completeness of the file as required?		
22.	Overall consistency of planning, coordination of care and documentation between the faculty clinician and the student		

Utilization/Peer Review Comments

Faculty Reviewer

Date

Exhibit XII

Patient Grievance Procedure

Palmer Chiropractic Clinics
Florida

Should a patient file a complaint, the following procedure must be followed:

1. Complaints will first be referred to the Patient Advocate and a patient grievance form will be completed. If the Patient Advocate cannot resolve the issue immediately, or the issue is outside of the scope of the Patient Advocate's responsibilities, the patient grievance form will be forwarded to the Director of Clinics, as soon as reasonably possible after the grievance has been reported.

2. The Director of Clinics will investigate the issue on behalf of the patient or will appoint a qualified person to undertake the investigation on his/her behalf.

3. At the conclusion of the investigation, the Director of Clinics or the appointed investigator will issue a written reply to the complainant addressing the issue and disclosing only that which is allowable under federal, state or local law and/or Palmer policies, rules or regulations. Any corrective measures will be documented separately.

4. If the patient is not satisfied with the resolution of the issue, he/she may appeal to the Dean of Academics within 10 business days of the communicated resolution. Such an appeal must be in writing and should include a brief statement of the factual basis for the appeal.

- Each issue will be initiated and resolved as soon as reasonably possible after the grievance is reported according to the nature or severity of the issue and the availability of essential personnel.

- The Director of Clinics will have the authority to impose appropriate measures on an interim basis where there is reasonable cause to believe that any action is needed for the health, safety or welfare of the grievant, patient, students, or employees or other members of the Palmer community to avoid disruption to the patient care or academic process.

Patient Grievance Form

Palmer Chiropractic Clinics
Florida

Today's Date: _____ Date incident occurred: _____

Name of person filing the grievance: _____

Name of person completing form: _____

Describe the location, nature of the issue you experienced, and witnesses to the incident:

_____

_____

_____

What attempts have been made to resolve the issue?

_____

_____

_____

In your opinion, what would be the most effective solution for all parties? _____

_____

_____

Clinic Office Use Only:

Corrective Action:

_____

_____

_____

Outcome: _____

_____

_____

Comments:

_____

_____

Completed By: _____ Date_____

Exhibit XIII

EVALUATION & MANAGEMENT CODING WORKSHEET

Patient Name: **File #:** **Date:**

For Educational Purposes Only

Identify the Category of Service
□ Office or Other outpatient service
□ Consultations
□ Home services
□ Prolong services
□ Case Management services
□ Care plan oversight services
□ Preventive services
□ Special or Other E/M Services
Identify the Subcategory of Service
□ New Patient
□ Established Patient
Determine the Extent of the History Obtained
□ Problem Focused
□ Expanded Problem Focused
□ Detailed
□ Comprehensive
Determine the Extent of the Examination
□ Problem focused
□ Expanded problem focused
□ Detailed
□ Comprehensive
Determine the Complexity of Clinical Decision Making
□ Straightforward
□ Low Complexity
□ Moderate Complexity
□ High Complexity
Record the Approximate Amount of Time
□ Face to Face time =

Verify Compliance with Reporting Requirements
All three key components required for <u>new patients</u>:
□ History component met or exceeded.
□ Examination component met or exceeded.
□ Clinical decision making (CDM) component met or exceeded.
Two of the three key components required for <u>established patients</u>:
□ History component met or exceeded.
□ Examination component met or exceeded.
□ Medical decision making component met or exceeded.
Verify Documentation
□ Met or exceeded
□ Not met
Assigning a code:
Code:
Intern name: **Intern signature:**
Clinicians name: **Clinicians signature + PIN:**

Exhibit XIV

SOAP NOTES (Standards)

Name: (DOH 2004 64B2 Line 9)	(DOH 2004 64B2 Line 25) Date: / /	File #:	Page:

SUBJECTIVE: (DOH 2004 64B2 Line 29) ☐ **MEDICARE – EDUCATIONAL PURPOSES ONLY**

To be completed by the patient: "significant changes" (ACA 2005 p55, Lines 4-7)

- **Have you had any accidents, injuries or trauma(s) since the last visit? Yes No**
- **Do you have any new complaints or symptoms since last visit? Yes No**

Patients Signature: _____

(Any "yes" answers require a F.E.W. to be completed.)

"Review of chief complaint" (ACA 2005 p56, Line 53), "Reason for encounter" (CMS 1997 p3, Line 10)

"significant changes in … subjective complaints" or "no change" (ACA 2005 p55, Lines 4-7), "Changes since last visit" (ACA 2005 p56, Lines 54)

"Relevant Hx" (CMS 1997 p3, Line 10)

"System review, if relevant" (ACA 2005 p56, Lines 55)

OBJECTIVE: (DOH 2004 64B2 Line 30), "relevant … physical exam findings" (CMS 1997 p3, Line 10)

"relevant… prior diagnostic test results" (CMS 1997 p3, Line 11)
"clinical information to show necessity for the level of manipulation service reported" (ACA 2005 p50, Lines 19-22)

"Area of spine involved in Dx" (ACA 2005 p56, Lines 57)

"subluxation must be established by x-ray or physical exam" (ACA 2005 p56, Lines 7-8)
"**X-ray** … 12 months prior, 3 months following, exception if chronic/permanent condition " (ACA 2005 p56, Lines 7-8)

"**Physical Examination** … 2 of these 4 must be present, 1 of which must be (A) or (R)" (ACA 2005 p56, Lines 15-24)
"•P-Pain/Tenderness (location, quality, and/or intensity)"

"•A-Asymmetry/Misalignment (sectional or segmental level)"
"•R- Range of Motion Abnormality (sectional or segmental mobility"

"•T-Tissue/Tone Changes (temperature, color, swelling, spasticity, etc.)"

"significant changes … objective findings" or "no change" (ACA 2005 p55, Lines 4-7)

ASSESSMENT: (CMS 1997 p3, Line 12),(DOH 2004 64B2 Line 31)

"significant changes" (ACA 2005 p55, Lines 8-11), "Assessment of change in condition since last visit" (ACA 2005 p56, Line 58)
"no significant changes … note "better","worse", "same"" (ACA 2005 p55, Line 10-11)

"ICD-9-CM codes reported on the health insurance claim form … should be supported by the documentation in the medical record." (CMS 1997 p3, Line 22-24)

"assessment, clinical impression or diagnosis" (CMS 1997 p3, Line 12)

PLAN: (CMS 1997 p3, Line 13)	Segment	Sublux.	Techn.	DC Initials
"changes to … plan … any new treatment plan" (ACA 2005 p55, Line 19-20) "changes to … next visit" (ACA 2005 p55, Line 20)	(ACA 2005 p50, Line 23-5)			
"Tx Provided" (DOH 2004 64B2 Line 32), "Treatment given" (ACA 2005 p56, Line 61) "CMT service(s) rendered" (ACA 2005 p50, p55, Line 12-15)				

"ancillary services" (ACA 2005 p55, Line 16-18) "additional services" (ACA 2005 p55, Line 21)				
"Supervised Modality … area … intensity" (ACA 2005 p52, Line 8,21, p55) "Constant Attendance Modality [& rehab] … area … time" (ACA 2005 p53, Line 9-12, p54)				
"Referral…name .. type..provider … clinical rationale" (ACA 2005 p60, Line 4-9) "disability … return to work … work restrictions" (ACA 2005 p57, Line 5-13)				
"Periodic Reassessments" (DOH 2004 64B2 Line 33) "compliance" (ACA 2005 p63) "Exercise/rehab … Instruc… sep. proc.…Instruc./ed." (ACA 2005 p61, Line 10-18)				

Date of Onset: **ICDA-Codes: 1)** **2)** **3)** **4)** **AT /**
GA

OTHER NOTES:

"Evaluation of treatment effectiveness" (ACA 2005 p56, Line 60)

"ICD-9-CM codes reported on the health insurance claim form … should be supported by the documentation in the medical record." (CMS 1997 p3, Line 22-24)

Intern: (CMS 1997 p3, Line 14), (DOH 2004 64B2 Line 25) (PRINT)	Clinician: (CMS 1997 p3, Line 14) PIN:

Exhibit XV

History Taking Assessment Rubric

▫Ability to develop a patient's comprehensive case history to include all elements appropriate to the patient's entering complaint and health status.

PO 001-1	0-2 Substandard, inadequate	3-5 Major elements missing	6-8 Satisfactory, meet expectations	9-11 Exceeding expectations	Value

- Level, depth of questioning
- Completeness and appropriateness

▫Ability to conduct the history in a clear, concise and organized manner actively listening and communicating with the patient.

PO 001-2	0-2 Substandard, inadequate	3-5 Major elements missing	6-8 Satisfactory, meet expectations	9-11 Exceeding expectations	Value

- Patient comfort
- Room environment

▫Ability to modify and apply history taking skills appropriate to challenging situations and difficult patient interactions.

PO 001-3	0-2 Substandard, inadequate	3-5 Major elements missing	6-8 Satisfactory, meet expectations	9-11 Exceeding expectations	Value

- Empathy
- Respect

▫Ability to question the patient with appropriate depth and pursue all relevant health concerns and symptoms

PO 001-4	0-2 Substandard, inadequate	3-5 Major elements missing	6-8 Satisfactory, meet expectations	9-11 Exceeding expectations	Value

- Patient apprehension recognized
- Verbal and physical responses
- Understanding of non-verbal clues

▫Ability to accurately record, elicited information in an organized fashion and develop an initial problem list.

PO 001-5	0-2 Substandard, inadequate	3-5 Major elements missing	6-8 Satisfactory, meet expectations	9-11 Exceeding expectations	Value

- Exam selection
- Differential diagnosis

Comments: _____

_____

_____

_____

☐**Formal remediation recommended**

Exhibit XVI

Diagnostics: Radiology and diagnostic test encounter
Radiographic performance evaluation (RTs)

▫Ability to perform the appropriate diagnostic exams, ability to take, process and produce plain film radiographs with diagnostic quality and attention to safety.

PO	0-2	3-5	6-8	9-11	Value
005-2	Could not or barely performed	Required assistance for basic tasks	Required little assistance	Required no assistance	

- ☐ Film size
- ☐ FFD
- ☐ Central ray
- ☐ Use of marker
- ☐ Collimation
- ☐ Filtration
- ☐ ID blocker placement
- ☐ Patient placement
- ☐ Shielding
- ☐ Patient instruction
- ☐ Dark room procedures
- ☐ Other: _____

Comments:

_____

_____ RT signature: _____

☐ Formal remediation recommended

Diagnostic test and film review evaluation (Radiologist)

▫Ability to recognize the importance of all of the appropriate diagnostic studies.

PO	0-2	3-5	6-8	9-11	Value
005-1	Substandard, inadequate	Major elements missing	Satisfactory, meet expectations	Exceeding expectations	

▫Ability to interpret diagnostic exam results and ability to understand the value and clinical significance of the diagnostic studies.

PO	0-2	3-5	6-8	9-11	Value
005-3	Substandard, inadequate	Major elements missing	Satisfactory, meet expectations	Exceeding expectations	

▫ Ability to recognize all the benefits, costs & risks in assessing the need for diagnostic studies.

PO	0-2	3-5	6-8	9-11	Value
005-5	Substandard, inadequate	Major elements missing	Satisfactory, meet expectations	Exceeding expectations	

▫ Ability to order all diagnostic studies with attention to professional protocol, appropriate patient instruction & follow up.

PO	0-2	3-5	6-8	9-11	Value
005-6	Substandard, inadequate	Major elements missing	Satisfactory, meet expectations	Exceeding expectations	

▫Ability to recognize when diagnostic procedures are insufficient and advanced studies are required.

PO	0-2	3-5	6-8	9-11	Value
006-4	Substandard, inadequate	Major elements missing	Satisfactory, meet expectations	Exceeding expectations	

- ☐ Radiology requisition
- ☐ Diagnostic test requisition
- ☐ Critical thinking component
- ☐ Other: _____
- ☐ Report
  - o Structure
  - o Terminology

Radiologist signature: _____

☐ Formal remediation recommended

File # _____ Date: _____

Intern: _____ Class _____

Exhibit XVII

Competency Assessment Matrix (CAM)

Matric #	Clinician	Case #	Date		008-1	008-2	008-3	008-4	008-5	008-6	008-7	008-8	008-9	008-10	total
10012	7	18312	7/28		7	7	7	7	7	6	6	5	7	5	
	7	18212	8/3		8	7	7	7	8	6	7	6	8	6	
	7	18512	8/17		6	7	8	7	7	6	6	7	7	6	
	11	11623	7/29		11	11	11	11	11	11	11	0	11	0	
	11	2263	8/2		0	11	0	11	0	11	11	0	11	0	
					32	43	33	43	33	40	41	18	44	17	68.8
Average					6.4	8.6	6.6	8.6	6.6	8	8.2	3.6	8.8	3.4	6.88

Quarter	Average	Average	Average	Average	Average	Average	Average
9th	3.00	3.50	4.00	4.50	5.00	5.50	6.00
10th	4.00	4.50	5.00	5.50	6.00	6.50	7.00
11th	5.00	5.50	6.00	6.50	7.00	7.50	8.00
12th	5.50	6.00	6.50	7.00	7.50	8.00	8.50
13th	6.00	6.50	7.00	7.50	8.00	8.50	9.00
Rubric Score:	70.00	75.00	80.00	85.00	90.00	95.00	100.00

2.III.I. Research and Other Scholarly Activity

3. Inputs

The DCP must provide appropriate financial, faculty, physical, and administrative resources for the conduct of research and scholarly activities.

The COA is concerned that faculty do not have the opportunity to be engaged in research and scholarly activities due to heavy teaching loads and/or administrative responsibilities. PCC reported that it is planning to hire more faculty and that it has put the necessary resources in place to support faculty engagement in scholarly and research interests. PCC must provide a report on the research and scholarly activity outcomes at PCCF.

PCCF RESPONSE: I.3. Inputs

Overview of Infrastructure and Agenda Development

In calendar year 2005, Palmer College of Chiropractic Florida (PCCF) made significant advancements toward the goal of establishing a local infrastructure to support research and scholarly activities. On December 1, 2004, Dr. J. Donald Dishman, a Professor in the Department of the Basic Sciences, was appointed Interim Director of Research. Dr. Dishman possesses a significant track record of external private and federal research funding. He has published numerous manuscripts in prestigious international journals and has presented his data at many international conferences. His first charge was to identify and develop a location for the on-campus Research Center. In consultation with PCCF senior administration, as well as the Palmer College of Chiropractic Vice President for Research, Dr. William Meeker, an ideal location in the Allen Green Community Center was identified. This location houses the PCCF outpatient clinic and provided more than adequate square footage to conduct original research involving human subjects.

In the Spring and Summer of 2005, the research laboratory and departmental space was designed, and furniture, lockable cabinets, desks, room dividers and treatment benches were obtained. Dr. Dishman brought with him from his previous institution a general electophysiological recording instrument and

various supplies, such that a continuation of his past research agenda evaluating the neurophysiological effects of spinal manipulative therapy could be performed.

In June of 2005, the President of PCCF, Dr. Peter Martin, appointed Dr. Dishman as the permanent Director of Research (DOR) at PCCF. An administrative assistant was assigned partial duties to Dr. Dishman and the Research Department at that time to provide for necessary clerical support.

Dr. Dishman developed a research project and protocol that was PCC IRB approved in August of 2005. This research project began in the Fall term of this year. ***The establishment of the laboratory facility and obtainment of instrumentation was a significant milestone in our agenda to develop the initial phases of an infrastructure capable of supporting original research on the physiological mechanisms of chiropractic treatment procedures.***

The second phase of the research infrastructure development program was to identify a consensus for a PCCF research agenda, both short-term and long-term, and to begin long range strategic planning to implement this agenda. The PCCF senior administration was consulted, along with administrators from PCC and priorities for research topics were established. These areas of research emphasis are to include: (1) basic and applied science research of the physiological effects of chiropractic treatment (2) relative comparisons of various types of chiropractic treatment and their physiologic differences (3) chiropractic educational research and (4) clinical outcomes research, especially with respect to geriatric populations. This four-tiered approach to research was developed based on the existing faculty scientific experience and interest, relative availability of geriatric patients in our large outpatient facility, and exposure to a unique curriculum delivery system by our faculty members.

To date, three of four of these areas of our identified research interests have been initiated. These areas of research (physiology of manipulation,

technique comparison, and chiropractic educational research) have been initiated and manuscripts have been published in prestigious journals and/or abstracts submitted and presented at relevant conferences. The development of the geriatrics-based clinical outcomes agenda will begin in 2006.

Institutional Financial Support

After a consensus was reached as to PCCF's research agenda, a rational approach to fiscal support of the agenda was developed. The PCCF DOR, in conjunction with local senior administration, as well as the VP for Research of PCC, developed a progressive budget for the first five years of the program. This budget has been approved by the administration as well as the COA in previous correspondences. To date, the budget has proven adequate to meet our goals in our model of progressive research infrastructure development. The budget includes funding for supplies and durable goods, faculty salary release time, faculty development and enrichment, and travel to relevant research related conferences. The current and projected five year budget is sufficient to meet the needs of an increasing effort by current members of the PCCF faculty. At present, there is a .5 FTE salary line assigned for research. Beginning in the first academic term of calendar year 2006, another .5 FTE has been assigned to a faculty member with an approved research agenda. ***Thus, for calendar year 2006 a full FTE will be allocated for full-time research faculty.*** It is projected that the research FTE will increase progressively in the future.

Additionally, ***PCCF has financially supported equipment and supplies purchases, as well as travel for three faculty members to present original research papers at the World Federation of Chiropractic Biennial Congress in June of 2005, held in Sydney, Australia. Additionally, several faculty members presented papers and attended the ACC/RAC conference in March of 2005.***

Lastly, in 2005, the PCCF research fund supported in full, a research sabbatical for Dr. David Skyba at the University of Colorado at Boulder. Dr. Skyba, a pain researcher, was a co-investigator with world-renown pain researcher Dr. Linda Watkins. Dr. Skyba's collaboration with Dr. Watkins will result in a manuscript in the coming year to be submitted to a prestigious pain journal.

Faculty Resources for Research

In the past year, PCCF new faculty recruitment strategies have included searches that seek to identify candidates with relevant research expertise and track records. Several key faculty hires have taken place this year that greatly enhance the institution's ability to conduct relevant and high quality research. Several members added to the ranks of the basic sciences faculty in calendar year 2005 include: (1) Veronica Sciotti-Dishman, Ph.D. (2) David Skyba, D.C., Ph.D. (3) Christopher Meseke, Ph.D. (4) Shawn He, M.D., M.Sc. and (5) John Ofenstein, Ph.D. These faculty members all have significant publication records and grant writing expertise.

Dr. David Skyba has submitted, and has been approved for a .5 FTE research release for calendar year 2006. Dr. Skyba will be conducting psychophysical experiments in chronic low back pain patients and evaluating the affect that chiropractic management has on this population. Preliminary discussions are now underway to team Drs. Offenstein, Meseke and Sciotti-Dishman in an effort to evaluate the effects of chiropractic manipulation on inflammatory cytokines.

It is of significance that beginning in the first academic term of calendar 2006, the vast majority of all PCCF faculty members will have their teaching schedules arranged in such a manner as to provide for one to two non-teaching days. This milestone was accomplished with significant effort on the part of the Department of Academic Affairs. This action was carried out specifically to allow for adequate time for faculty members to engage in relevant research and scholarly activities. This action will be a major incentive for many

faculty members to develop their research interests. Overall, ***with the addition of several new faculty members and an ever-increasing stability among the current faculty, the availability of time for research activities has been significantly enhanced in the past year.***

The extensive and experienced research infrastructure of the Palmer Center for Chiropractic Research (PCCR) at the Davenport Campus encompasses the Florida research effort and supports it in the following ways. 1) Developing research policies and protocols; 2) Maintaining the Institutional Review Board (IRB) for ethical approval of human subject research; 3)Training Florida faculty and staff on how to access and work with research personnel and functions already developed by the PCCR; 4) Making available informational resources on the PCCR intranet web site to the Florida faculty, e.g., literature search and retrieval tools, research skills summaries, proposal outlines, and grant application forms; 5) Providing web-based data management functions and statistical expertise through the Office of Data Management; 6) Providing grant administration and budget management services, and 7) providing opportunities for faculty training in research skills (e.g. on-campus workshops, attendance at the ACC-Research Agenda Conference). ***The research effort at Palmer Florida is integrated with and supported by the largest research program in North America, the Palmer Center for Chiropractic Research.***

Summary of Research Activities and Accomplishments in 2005

Several PCCF faculty members have had manuscripts published in high quality and prestigious journals over the course of this past year. In addition, several faculty members have presented original research in either platform or poster presentations at relevant conferences. These accomplishments include publications in such world-renown journals as: Pain, Journal of Pain, Spine, The Spine Journal and the Journal of Manipulative and Physiological Therapeutics.

In March of 2005, several faculty members obtained institutional financial support to attend the ACC- RAC annual meeting. Two PCCF faculty members presented papers (one related to chiropractic educational research and one related to the physiology of spinal manipulative therapeutics). In addition, in June of 2005, three PCCF faculty members presented original research papers at the World Federation of Chiropractic Biennial Congress in Sydney, Australia. (See publication and presentation list **Exhibit XVIII.**)

Summary of Evidence of Compliance with Noted Concern(s)

1. Faculty workloads have significantly been reduced in 2005.
2. Faculty teaching schedules have been strategically aligned and structured to maximize non-teaching days available for research-related activities.
3. Faculty in-service training for research skills has been conducted on a routine basis and will continue in the future.
4. Several key new faculty members have been recruited and contracted in 2005, of which many possess significant research experience and skills.
5. The PCCF budget has been progressively increased to support research infrastructure, including faculty release time.
6. Appointment of a permanent DOR at PCCF to assist in the implementation of the research agenda.

In summary, it is the submission of the institution that overwhelming evidence had been provided to address all previous research related concerns of the COA. Based on the aforementioned action steps that have been implemented, there is significant evidence that the PCCF research program is in compliance with CCE standards.

Exhibit XVIII

Research and Scholarly Activity at PCCF

Publications:
(PCCF Authors are highlighted in Bold)

Grenier JM, Scordilis PJ, Wessely MA. A 23-year-old man with wrist pain: Case presentation. Clinical Chiropractic 2005;8:47-8

Grenier JM, Scordilis PJ, Wessely MA. A 23-year-old man with wrist pain: Case discussion. Clinical Chiropractic 2005;8:107-10

Scordilis PJ, **Grenier JM**, Wessely MA. Shoulder MRI. Part 1: A basic overview. Clinical Chiropractic 2005;8:93-101

Skyba DA, Radhakrishnan R, Sluka KA. Characterization of a method for measuring primary hyperalgesia of deep somatic tissue. Journal of Pain 2005; 6(1):41-47

Skyba DA, Lisi TL, Sluka KA. Excitatory amino acid concentrations increase in the spinal cord dorsal horn after repeated intramuscular injection of acidic saline. Pain, in press

Dougherty P, Bajwa S, Burke J, **Dishman JD**. Spinal manipulation postepidural injection for lumbar and cervical radiculopathy: a retrospective case series.
J Manipulative Physiol Ther. 2004 Sep;27(7):449-56.

Dishman JD, Dougherty PE, Burke JR. Evaluation of the effect of postural perturbation on motoneuronal activity following various methods of lumbar spinal manipulation. The Spine Journal. 5 (2005) 650-659.

Dishman JD, Greco D, Burke, JM. Motor evoked potentials recorded from lumbar erector spinae muscles: *a study of corticospinal excitability changes associated with spinal manipulation.* Spine (in review)

Burke JM, Buchberger DJ, Carey-Longmani M, Dougherty PE, Greco, DS, **Dishman JD.** Manual therapy interventions for carpal tunnel syndrome. Archives of Physical Medicine and Rehabilitation (submitted)

MvIver KL, Evans C, Kraus RM, Ispas L, **Sciotti-Dishman VM**, Hickner RC. NO-mediaeed alterations in skeletal muscle nutritive blood flow and lactate metabolism in fibromyalgia. Pain (accepted for publication)

Seaman DR. Health care for our bones: a practical nutritional approach to preventing osteoporosis. J Manip Physiol Ther 2004; 27:591-95

Seaman DR, Luce AJ. The contrasting meanings of innate intelligence and their practical utility. J Vertebral Subluxation Res 2005; March 7, pg. 1-5

Seaman DR, Faye LJ. The subluxation complex. In Gatterman MI. Foundations of chiropractic: subluxation. 2nd ed. New York: Elseviier; (in press for March 2005)

Keller RL, Tacy TA, Fields S, **Ofenstein JP**, Aranda JV, Clyman RI. Combined treatment with a nonselective nitric oxide synthase inhibitor (L-NMMA) and indomethacin increases ductus constriction in extremely premature newborns. Ped Res 58 (6) 1216-21.

Presentations:

ACC/RAC March 2005

Dishman JD, Greco D, Burke JM. The effects of lumbar spine manipulation on motor evoked potentials from human lumbar erector spinae muscles: a pilot study.

Bovee, ML, Gran DF. Effects of collaborative testing on student satisfaction surveys.

World Federation of Chiropractic June 2005

Dishman JD, Greco D, Burke JR. Motor Evoked Potentials Recorded from Lumbar Erector Spinae Muscles: A study of corticospinal excitability changes associated with spinal manipulation. Platform Presentation.

Sciotti VM, Trappe TA, Hickner RC. Investigating the Pathogenesis of Myofascial Pain Syndrome. Platform Presentation.

Seaman DR. The Appropriateness of the term "Nerve Interference" as a Descriptor Related toSubluxation and Chiropractic Care. Poster Presentation.

Brown KS, Dougherty PE, Burke JR, **Dishman JD.** The effect of mechanical force, manually assisted (MFMA) spinal manipulative therapy on muscle tone in a spastic hypertonic model. Platform Presentation.

Shumilla JA, Ledeboer AM, Liu T, Hutchinson MR, **Skyba DA**, Pater C, Watkins LR, Johnson KW. AV-411, a novel attenuator of neuropathic pain. 8th International Conference on the Mechanisms and Treatment of Neuropathic Pain Abstr., 2005

McKim R, Sluka KA, **Skyba DA**, Radhakrishnan R, Bonthius DJ, Wemmie J, Pantazis NJ. Formalin induced peripheral and centrally mediated nociception decreases in neuronal nitric oxide synthase (nNOS) knockout mice. Soc. Neurosci. Abstr., 2005

Skyba DA, Lisi T, Sluka KA. Enhanced glutamate release in the spinal cord in a model of chronic musculoskeletal pain. 11th World Congress on Pain Abstr., 2005

Vance C, Radhakrishnan R, **Skyba DA**, Sluka KA. Effects of TENS on acute and chronic primary hyperalgesia induced by knee joint inflammation in rats. APTA-CSM Abstr., 2006

SUMMARY

During the last two years, Palmer Florida has experienced two site visits and prepared multiple accreditation reports which have been submitted to CCE. These reports have been in addition to the original reports that established it as a viable institution of higher chiropractic education. Also within the past two years, Palmer Florida has been approved with licensure to operate in the state of Florida by the Florida Commission on Independent Education and has been extended regional accreditation as a branch campus via the Higher Learning Commission of the North Central Association of Colleges and Schools. Finally, it has been approved by 49 of the 50 states to allow students to sit for state licensure exams; the exception being California, currently under consideration. In short, Palmer Florida has come under considerable scrutiny as to its higher education functions, and rightly so in order to take its place among the best chiropractic colleges in the United States.

As indicated during the COA meeting in July of 2005, an error administratively was committed in that an expectation of concerns being corrected had been committed. Naturally, the CCE team found the error and thus noted the current concerns. However, there has been some time now since the Commission voiced its concerns for Palmer Florida. That time has been put to good use. That time actually began the moment the site team departed the campus. Task forces were appointed, teams assembled, objectives formulated, personnel hired, timelines established, and accountability for the concerns firmly implanted.

It did not take until now to completely answer the concerns noted in the July 2005 COA letter. Personnel from Davenport and Palmer West joined the efforts of Palmer Florida personnel to remedy the identified concerns. That is an advantage of having a Palmer system. And as such, it is now believed that the concerns have been rectified.

The expectations that Palmer places upon itself are formidable. That is, if Palmer is to take its rightful place as it tells itself everyday – the leader of chiropractic education – then it must acclimate itself to conducting its business on a higher plane. That plane is, "One Palmer College of Chiropractic with multiple campuses in different locations of the United States all delivering equivalent high quality education to produce the best chiropractor in the world."

To accept the identified concerns of the CCE as being acceptable business of operating Palmer's campuses, does not recognize the requirements of being the highest quality of chiropractic institution in the world, and therefore Palmer has committed itself to never being in the situation again of having the deficiencies, clinical or otherwise, identified by the COA. Palmer has therefore corrected the concerns identified, it has established adept planning and budgeting processes, explored new clinical processes beyond those identified in the standards, and has implemented educational assessment processes and personnel to ensure that all components of Palmer's educational program meet the high expectations of Palmer.

This progress report demonstrated the compliance of Palmer with CCE Standards as far as correcting identified concerns. Verification can only occur through yet another site visit, welcomed by Palmer at a time of convenience for the CCE. Whereas some may shy from site visits, Palmer views them as an opportunity to shine, to demonstrate, and to educate. We welcome that opportunity in the future.

(9)

CCE
THE COUNCIL ON CHIROPRACTIC EDUCATION

COMMISSION ON ACCREDITATION
8049 NORTH 85TH WAY ▪ SCOTTSDALE, AZ 85258-4321 ▪ PHONE: 480-443-8877 ▪ FAX: 480-483-7333

BOARD OF CHIROPRACTIC EXAMINERS
06 JAN 17 PM 1:59

January 11, 2006

Catherine A. Hayes
Executive Director
California Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833-2931

Re: Palmer College of Chiropractic Florida – CCE Accreditation

Dear Ms. Hayes:

At the request of Dr. Douglas Hoyle, Palmer College of Chiropractic Chief Institutional Effectiveness Officer, and based upon his telephone conversation with California Board of Chiropractic Examiners Licensing Coordinator, Ms. LaVella Mathews, the Commission on Accreditation (COA) of the Council on Chiropractic Education (CCE) is providing this correspondence.

On January 5, 2006, Dr. Hoyle and Ms. Mathews discussed via telephone the California Board of Chiropractic Examiner's approval process for Palmer College of Chiropractic Florida (PCCF). As a result of that conversation, Ms. Mathews requested a letter from the COA describing the accreditation processes surrounding PCCF. I am pleased to provide that information.

As you have been informed, the COA extended accreditation to the PCCF doctor of chiropractic program in its letter dated July 27, 2004. Most recently, a focused site team visited that campus and issued a focused report, which you have received. Further, in its July 22, 2005 letter, the COA requested that some concerns be addressed in a progress report by December 2, 2005, which you have also received.

PCCF submitted that report on December 2, 2005 for COA review at its Annual Meeting January 14-15, 2006. At that meeting, the COA will discuss PCCF's efforts in addressing those concerns.

I sincerely hope this letter satisfies Ms. Matthew's information request made on behalf of the California Board of Chiropractic Examiners. If you have questions regarding the above, please feel free to contact me, or the CCE Executive Director, Dr. Martha S. O'Connor, through the CCE Executive Office.

Sincerely,

Laura C. Weeks, D.C., Chairman
Commission on Accreditation

cc: Dr. Donald P. Kern, President, PCC (IA)
Dr. Peter Martin, President PCCW and PCCF
Dr. Douglas E. Hoyle, PCC Chief Institutional Effectiveness Officer
Ms. LaVella Mathews, Licensing Coordinator, California Board of Chiropractic Examiners

Discussion and Action re: College Approval/Palmer-Florida

Dr. Stanfield referred to Exhibit G regarding the decision to approve or reject the college application for Palmer-Florida. Dr. Stanfield gave a brief background and deferred to public comment regarding this issue.

Dr. Douglas Hoyle, Chief Institutional Effectiveness Officer, representing Palmer-Florida, commented on the campus accreditation. He stated that the campus is fully accredited with the CCE and has had site teams visit the campus. Dr. Hoyle further indicated that Palmer-Florida stands on its own merit as a CCE accredited college. Dr. Stanfield inquired about the results of the Commission of Accreditation (COA) review that was completed on January 14, 2006. After a lengthy Board discussion, it was decided to wait for the results of the COA report and make a final decision at the April 20, 2006 Board meeting.

DR. HAYES MOVED TO TABLE THE DECISION UNTIL THE NEXT MEETING. DR. TYLER SECONDED THE MOTION. VOTE: 6-0. MOTION CARRIED.

CONTINUING EDUCATION (CE) COMMITTEE

Discussion and Action re: Approval of CE Worksheet

Dr. Hamby referred to Exhibit I, Course/Provider Worksheet for Board member review and signatures.

Discussion and Action re: Approval of CE Providers

Dr. Hamby referred to Exhibit H, Approval of CE Providers. After Dr. Hamby gave a brief background on the providers, Dr. Stanfield asked for a motion to adopt both the CE Providers and CE Courses.

DR. HAYES MOVED TO ADOPT THE LIST OF APPROVED CE PROVIDERS AND COURSES. DR. YOSHIDA SECONDED THE MOTION. VOTE: 6-0. MOTION CARRIED.

Discussion and Action re: Chiropractic Techniques Taught at Approved CCE Colleges

Dr. Hamby referred to Exhibit J, and reported on the various techniques at approved CCE colleges.

Ms. Hayes provided the Board members with a revised "Application for Approval of Continuing Education Courses" application. She identified for the members what modifications were made to the application. She advised them that the new application would be effective today, unless the members had any comments or changes.

ELECTION OF OFFICERS

Dr. Stanfield requested nominations for the offices of Chair, Vice Chair, and Secretary

Dr. Hamby nominated Dr. Stanfield. Dr. Hayes nominated Dr. Yoshida. There being no further nominations, Dr. Stanfield closed the nominations for Chair. The nominees shared their reasons for seeking the position.

DR. STANFIELD CALLED FOR A VOTE. DR. STANFIELD WAS ELECTED AS CHAIR. VOTE: 4-2.

Dr. Stanfield requested nominations for Vice Chair. Dr. Hayes nominated Dr. Yoshida. Dr. Tyler nominated Dr. Hamby. There being no further nominations, Dr. Stanfield closed the nominations for

Palmer College of Chiropractic Florida
Documents Referenced in Timeline

Items 11 - 26

RECEIVED VIA EMAIL ON 2/20/06

February 20, 2006

Dr. Douglas Hoyle
Palmer College of Chiropractic
723 Brady Street
Davenport, IA 52803

Dear Dr. Hoyle,

My name is Lynn Mabry. I am in the first graduating class of Palmer College of Chiropractic Florida. I attended Palmer College of Chiropractic Florida for several reasons. The first reason, whose theme will be spotted though out this letter, is that I am a family oriented person. I grew up near Orlando, Florida. My parents live only 40 miles away from the Palmer Florida campus. My grandparents live in Port Orange under 5 miles away from the campus. When I found out that Palmer Florida was opening so near to my loved ones it was not too much time later that I decided to go home to study.

Palmer College of Chiropractic in Davenport and Palmer College of Chiropractic West have wonderful reputations around the profession. I knew going to a Palmer school would mean a top education in addition to being able to carry a well known, well respected name. I knew that Palmer colleges have always kept up with all the necessary requirements for accreditation. In fact, it is also known that they not only meet but exceed what is necessary.

Many years ago, my mother got into a car accident. She had terrible whiplash and she went to a chiropractor. She received care for her injuries, as well as, being educated about all the benefits of chiropractic outside acute care. She subsequently brought me and the rest of my family to her chiropractor for wellness and preventative care.

Years later, after graduating from the University of Florida, I was working in a Chiropractors office as a massage therapist. I really loved watching the workings of the office. It was always so interesting to me to hear about the people and families who came in for care, and all their many reasons for coming in. I also noticed how happy the chiropractor was all the time about his life and chosen profession. After a year, I finally realized I wanted to become a chiropractor. I made the decision and I have never looked back. I still feel like it was the best decision I have ever made.

Through my years in chiropractic school I grew to understand why the chiropractor I worked for was so satisfied with his life. Chiropractic is not only a means for income but one where you are serving your community in a well rounded, positive way. Young and old, sick and well I feel I have a service which everybody could utilize to help them live a more full life. There is a wide range of help I can offer: from helping people out of pain, to helping people improve their performance in their favorite sport or leisure activity.

I want to practice in California because my brother lives here. He has lived in Huntington Beach for over 5 years now. He met his soul mate, who is now his wife and they are getting ready to start a family. I know that he loves his life here with his wife and he will not be returning to Florida. Since my brother got married I have been planning to move to California after graduation to start a practice. I want to be around him and his wife, and I want to be around for their future family. My parents will eventually move west to be with us, as well.

Currently I am enrolled in Palmer College of California West post graduate extern program. With this status, I can work under a licensed chiropractor here in California. All those involved with this program are working on getting everything processed as we speak and hopefully I will be able to work soon. Under this arrangement I can work with the licensed doctor for up to one year of my gradation date, which was December 16, 2005.

It has been very hard on me knowing that the Board of Chiropractic Examiners in California has not made a decision on whether they will be accepting Palmer College of Chiropractic Florida into their list of approved schools so that I can take the California State Board of Chiropractic Examiner's licensing exam. There is a constant level of anxiety within me that nothing but the outcome of that decision will take care of. I do know that 49 out of 50 states in this country have accepted Palmer Florida into their list of approved schools. There is something comforting about that, however, I really want a future in California with my brother and his family. This has been my dream for many years now. I am hoping the Board will not delay this decision and that it will be a favorable one for me and the rest of my schoolmates back in Florida who want this state as an option to practice in.

Thank you for your time,

Lynn K. Mabry

Palmer
College of Chiropractic

Accreditation *Planning* *Institutional Research*

February 27, 2006

Barbara A. Stanfield, D.C., Chair
California Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833-2931

Dear Dr. Stanfield,

I write to request a meeting with you and/or the appropriate board members and/or staff to discuss the provisional approval of the Palmer College of Chiropractic Florida (PCCF) campus. We have had thoughtful discussions at recent board meetings and anticipate continuing those discussions at the April Board meeting. Unfortunately, time has become an issue in this matter. March 24, 2006, will mark the date of the next graduating class from PCCF with graduates interested in sitting for the State Licensing Exam. In addition, we were recently informed that a December graduate from our Florida Campus would like to practice in California and was not able to take the Law and Professional Practice Exam due to PCCF's current approval status. Attached is a letter from Ms. Mabry detailing her situation and explaining the hardship created by her inability to take the exam and proceed in her chosen profession.

For this reason we would like to discuss ways we can expedite this process. As requested, I have enclosed a letter from the Commission on Accreditation (COA) of The Council on Chiropractic Education that addresses the concerns listed on previous accreditation reports. While some concerns have been addressed, others remain until the COA returns for a site visit in the fall of 2006. As mentioned previously, our accreditation for this campus remains in good standing with the CCE. We are required by CCE to submit subsequent progress reports and will provide copies of the reports to the Board, as well.

We appreciate how seriously the Board reviews the applications of schools requesting approval in California. Palmer Colleges have for over 100 years strived for excellence

in the profession and we know our Florida Campus meets this level of excellence. We work hard to make sure our graduates receive state-of-the-art training. As always, we invite you to tour our facility and program at anytime.

A Palmer representative will contact your office to discuss this issue and options we can explore to help expedite this matter. We appreciate your thoughtful consideration of the issue and look forward to discussing our provisional approval. If you have any questions before we contact your office, I can be reached at 563-884-5512.

Sincerely,

Douglas E. Hoyle

Douglas E. Hoyle, Ph.D.
Palmer College of Chiropractic

Enclosures

C: Larry Patten, CEO, Palmer College of Chiropractic
Catherine A. Hayes, Executive Director, California Board of Chiropractic Examiners
Members, California Board of Chiropractic Examiners
Kathryn Austin Scott, Foley & Larder LLP

MEMORANDUM

March 23, 2006

To: Barbara Stanfield, D.C., Chair – CA Board of Examiners
Ed Weathersby, D.C., Pres. – Federation of Chiropractic Licensing Boards

From: David S. O'Bryon, Executive Director, Association of Chiropractic Colleges

Re: Satisfaction of Information Needed by Chiropractic Colleges Regarding Accreditation Status

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The purpose of this memo is to underscore and clarify the information needed by licensing boards, in this case California, as it fulfills its public regulatory function and public safety due diligence. I am very appreciative of everyone's comments that help provide direction so that states receive the information they need in order to fulfill their obligation and the accrediting process remains a strong and vibrant force for educational excellence. My purpose in writing this is to capture our discussion and offer a two step solution that meets the public safety issues that regulators need in order to be able to fulfill their obligations.

At the present time all the chiropractic programs in the United States are fully accredited by the Council on Chiropractic Education (CCE). The one exception is D'Youville College in New York which has started a program and is just now beginning the process toward accreditation. With that one exception as noted all the programs have programmatic accreditation through the Commission on Accreditation (COA) of the CCE.

In the accrediting process it is the normal course to have site teams visit and report back to the CCE's COA, which is the accrediting entity recognized by the United States Department of Education. This is the only entity that is nationally recognized to make accreditation status decisions for a chiropractic program. In the normal course of business, as accreditation is a peer review process, site teams point out a number of items noted during their visit. These items include commendations for accomplishment as well as recommendations for improvement. Site teams are charged to report their findings to the program and to the COA, and on occasion, interpretation by individual site team members may be included in these site reports. It is the norm for institutions to have issues raised as the purpose of these visits is to seek educational excellence. By definition, the quest for excellence is perpetual as the final state is never attained; we can always find room to improve. Thus virtually all site reviews have recommendations for improvement for the programs they examine.

The crucial public concern for regulators is public safety. Compliance with CCE *Standards* is a requirement for accreditation. Accredited status means, in effect, that the COA has determined that the program under consideration is in substantial

compliance with accreditation criteria and requirements. To reiterate, all U.S. programs with the exception noted above are *accredited*, meaning that the COA has determined that they are in substantial compliance with the Standards.

A second question is how CCE handles issues that arise. The COA advises each program following a step by step process within USDOE guidelines to ensure compliance and advance educational excellence. It is the normal process for educational accreditors to follow this volunteer peer review process internally and to further review programs that are continuing to work to advance their respective initiatives. There is a definitive moment when a program is deemed out of compliance and only the COA is authorized to make this determination. Following established CCE procedures and in accord with USDOE regulations, public notice is made when an adverse decision is rendered by the COA. The decision may include notice of sanction or revocation of accredited status. Because the CCE and the COA comply with USDOE regulations in the regard, this process follows essentially the same course as other recognized accrediting agencies.

This process has been developed to help assure that academic programs are in compliance with standards and to provide assurance to state regulatory boards and the public that CCE and COA are actively and appropriately involved in the programs they accredit.

State boards across the country rely upon CCE's due diligence to provide uniform and consistent standards, to apply procedures fairly and consistently, and to report any public findings in a timely manner, as Dr. Weathersby noted during our conversation on this topic. In the case of California a question may arise regarding pre-enrollment course work that would pertain specifically to some California requirement.

One could imagine a scenario where a California medical school' s accreditor visits the program and finds issues or concerns that do not affect its accredited status but instead are identified to promote educational excellence. If state regulators denied Stanford's graduates an opportunity to practice because a recommendation was identified, this would lead to inappropriate and unwarranted upheaval in the state. In this example, it is clear that the school would still be accredited and the confusion would be based solely on a misunderstanding and misapplication of the accreditation process.

THUS, A PROPOSAL:

To meet the state's general needs for public safety and regulation, the question that should be asked and answered is whether the program is accredited by CCE's Commission on Accreditation and whether any issues have arisen that the COA has determined need to make public notice of adverse action consistent with CCE policies and procedures. If the answer is yes to accredited status and no to any public notice, then the two part test would have been met.

Raw notes from parties not authorized to speak for the Commission on Accreditation, and not recognized to make accreditation decisions should appropriately not be considered when regulatory decisions regarding approval of educational programs are made. Thus public safety and due diligence have been served and the integrity of the accrediting process remains intact as a strong incentive to ongoing academic excellence.

Other sidebar inquiries relative to specific state curriculum requirements would obviously remain. I believe this enunciates some of our discussion to help advance your efforts as public officials and provides a strong process to advance the same.

Board of Chiropractic Examiners
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www.chiro.ca.gov

March 29, 2006

Douglas E. Hoyle, Ph.D.
Palmer College of Chiropractic
723 Brady Street
Davenport, Iowa 52803

Dear Dr. Hoyle,

This is in response to your letter dated February 27, 2006, requesting a meeting to discuss the pending application for approval of Palmer Chiropractic College Florida (PCCF).

On January 19, 2006, the California Board of Chiropractic Examiners (Board) decided to delay further consideration of PCCF's application pending a resolution of the concerns raised by the Council on Chiropractic Education, Commission on Accreditation. As noted in your letter, some of those concerns have been addressed but several apparently will not be resolved before fall of 2006. Accordingly, although the Board is always willing to work with applicants such as PCCF, a further meeting at this time would not be productive.

If you have any questions, please contact Paul Bishop, Legal Counsel at (916) 263-5359.

Sincerely,

Barbara Stanfield, D.C.
Chairperson

cc: Katherine Austin Scott, Foley & Larder LLP

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Palmer
College of Chiropractic

BOARD OF
CHIROPRACTIC EXAMINERS
06 MAY -4 PM 12:43

April 26, 2006

Ms. Catherine A. Hayes; Executive Director
California State Board of Chiropractic Examiners
2525 Natomas Park Drive Ste 260
Sacramento, CA 95833-2931

Dear Ms. Hayes:

By submission of this letter, we are withdrawing our request for approval to have Palmer College of Chiropractic Florida campus separately approved by the California State Board of Chiropractic Education.

Sincerely,

Larry G. Patten
CEO

cf

723 Brady Street, Davenport, Iowa 52803-5287
www.palmer.edu • 563-884-5500 • Fax: 563-884-5505

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Cost Recovery Data

Mr. Hinchee referred to Exhibit H and reported on the Cost Recovery Data.

Pending Disciplinary Actions

Mr. Hinchee referred to Exhibit I and reported on the Disciplinary Cases Received or Initiated. Mr. Hinchee also referred to a list of Active and Tolled Probationers.

Licensing

License Statistics

Mr. Hinchee referred to Exhibit J and reported on the most recent license statistics.

Chiropractic Law and Professional Practices Exam (CLPPE)

Mr. Hinchee referred to Exhibit K and reported on the CLPPE Monthly Report.

Discussion and Action re: College Approval/Palmer-Florida

Mr. Hinchee referred to a letter from Palmer College of Chiropractic which was received the morning of April 27, 2006. The letter stated that Palmer College of Chiropractic is withdrawing their request for approval to have Palmer College of Chiropractic Florida campus separately approved by the California State Board of Chiropractic Examiners.

Discussion re: CPR Provider Approvals

Ms. Matthews referred to Exhibit M and reported on requests submitted for CPR provider approval. Ms. Matthews indicated that staff needs direction from the Board on how these requests should be processed. She suggested to the Board to consider developing a criteria that staff can follow for approval of CPR providers. Following a brief discussion, the Board decided to table this issue for the next Board meeting in June 2006.

Discussion re: Chiropractic College Approvals for 2007

Ms. Hayes reported that she is in the process of revising the Chiropractic College Approval application and will be working with the College Approval Committee on the revision.

Regulatory and Legislative Update

Mr. Hinchee referred to Exhibit N and reported on current legislative bills. Judge Duvaras inquired on SB 356 and AB 1549 dealing with acupuncturist scope of practice. Mr. Bishop explained that these bills deal with acupuncturists attempting to expand their scope to include chiropractic techniques.

Kristine Shultz, representing California Chiropractic Association (CCA), informed the Board that a bill has been introduced relating to massage therapy which allows therapists to perform chiropractic manipulation.

Dr. Hamby inquired on SB 1209 regarding the 24-visit cap. Ms. Shultz responded that CCA has sponsored the bill to remove the Workers' Compensation 24-visit cap. Ms. Shultz further commented that SB 1256 would have allowed Doctors of Chiropractic to perform DMV bus driver physicals, has died and CCA will consider reevaluating the bill next year.

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Palmer
College of Chiropractic

June 29, 2006

Ms. Catherine A. Hayes
Executive Director
California Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833-2931

Dear Ms. Hayes:

As you may recall in April 2006 Palmer College of Chiropractic withdrew its previously submitted application for approval of its Florida campus by the California Board of Chiropractic Examiners. That was done so that we could take the time to consider a number of options available to us with regard to the application process. Since that time we have had ample opportunity to reconsider our approach to that application and have decided to reapply for approval of Palmer College of Chiropractic Florida by resubmitting our application to the California Board.

The application is attached to this letter of transmittal. We would hope that the application would receive consideration by the California Board at its July 20, 2006 meeting in Sacramento, CA.

Sincerely,

Larry G. Patten
Chief Executive Officer

Cc: Foley & Lardner, LLP

723 Brady Street, Davenport, Iowa 52803-5287
www.palmer.edu • 563-884-5500 • Fax: 563-884-5505

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Palmer
College of Chiropractic

BOARD OF CHIROPRACTIC EXAMINERS
06 JUL -6 AM 10:38

Accreditation *Planning* *Institutional Research*

July 5, 2006

Ms. Catherine Hayes
Executive Director
State of California Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833-2931

Dear Ms. Hayes:

Recently we sent to you our resubmission of our application for approval of Palmer College of Chiropractic Florida for consideration by the California Board. In addition to that material, I am also submitting for the Board's attention a letter to Dr. Stanfield from Martha S. O'Connor, CCE Executive Director. The purpose of that letter is to provide clarification of the status of Palmer Florida with regard to CCE concerns and their meaning in terms of Palmer Florida's accreditation status.

It would be our desire to have the letter become part of our application for approval and to have the application resubmission considered on the July 20, 2006 Board date.

Thank you for your assistance in expediting this matter.

Genuinely,

Douglas E. Hoyle

Douglas E. Hoyle, Ph.D.
Chief Institutional Effectiveness Officer

Office of Institutional Effectiveness
723 Brady Street, Davenport, Iowa 52803
Phone: 563-884-5512 Fax: 563-884-5505 www.palmer.edu

Campus Locations:

Palmer Florida
Port Orange, Florida

Palmer Davenport-The Fountainhead
Davenport, Iowa

Palmer West
San Jose, California

CCE
THE COUNCIL ON CHIROPRACTIC EDUCATION

EXECUTIVE OFFICE
8049 NORTH 85TH WAY ▪ SCOTTSDALE, AZ 85258-4321 ▪ PHONE: 480-443-8877 ▪ FAX: 480-483-7333

June 30, 2006

Barbara Stanfield, D.C.
State of California Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833-2931

Dear Dr. Stanfield:

RE: Palmer College of Chiropractic

I am writing to assure the California Board of Chiropractic Examiners that Palmer College of Chiropractic adheres to the CCE **Standards for Doctor of Chiropractic Programs and Requirements for Institutional Status** (***Standards***) as demonstrated by the fact that it is an accredited entity. The CCE Commission on Accreditation (COA) considers Palmer's Doctor of Chiropractic Programs (DCPs) at more than one location as a single accreditation action and lists the accreditation status as a single accredited DCP. Accordingly, all Palmer sites adhere to the CCE Standards.

A program or institution may adhere to the ***Standards*** and hold full accredited status while being in partial compliance with a specific requirement. The United States Department of Education (USDE) regulations recognize that not every accredited program can be in 100% compliance with 100% of the ***Standards*** 100% of the time; that is why there is a two (2) year time limit within which the program must come into full compliance after a particular criterion has been identified by the COA.

If the CCE ***Standards*** were of such minimal grade and inferior significance that every program was always in 100% (full) compliance, the requirements would not be of sufficient quality to meet acceptable levels for recognition. The expectation that every program is always in full compliance is unrealistic. Partial compliance with a particular requirement does not mean a total failure to comply with that criterion; it simply indicates that the program is working toward optimal fulfillment and may need addition time to meet that objective. Accreditation exists for the purpose of promoting educational excellence and assuring program quality. An essential element in achieving this purpose is the concept of continuous improvement. A program cannot pursue progressive improvement if the goal is simply to maintain full compliance of existing criteria—otherwise, there would be nothing to aspire to.

Please be assured that, by virtue of its accredited status, Palmer College of Chiropractic adheres to the CCE ***Standards***. CCE encourages you to recognize this accredited status, in accordance with the process exemplified by both the USDE and the Council on Higher Education Accreditation (CHEA). CCE is recognized by both these recognition agencies.

Sincerely,

Martha S. O'Connor

Martha S. O'Connor, Ph.D.,
CCE Executive Director

c: Joseph Brimhall, D.C., CCE President

Board of Chiropractic Examiners
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July 11, 2006

Douglas E. Hoyle, Ph.D.
Palmer College of Chiropractic
723 Brady Street
Davenport, Iowa 52803

Dear Dr. Hoyle,

This is in response to your letter dated June 29, 2006, requesting resubmission of the application for Palmer College of Chiropractic - Florida for consideration of Board approval. However, an application was not attached as indicated in the letter.

Currently, the Board is in the process of revising the application for approval of chiropractic colleges. Once the revision has been completed, a new application can be resubmitted for reconsideration of Board approval.

If you have any questions, please call me at (916)263-6465.

Sincerely,

Lavella Matthews
Licensing Program Analyst

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State of California

MEMORANDUM

To: Richard H. Tyler, D.C.
David F. Yoshida, D.C.

Date: July 25, 2006

From: Lavella Matthews
Licensing Program Analyst

Subject: Palmer College of Chiropractic Florida (PCCF)

Attached is a letter from Palmer College of Chiropractic – Florida (PCCF) dated July 5, 2006, requesting resubmission of their application for college approval. Douglas Doyle, Ph.d., Chief Institutional Effectiveness Officer, was informed that the College Approval Committee is in the process of revising the application. Once the revision has been completed and approved by the Board members, PCCF can resubmit a new college application for reconsideration of Board-approval.

If you have any questions, please call me at (916) 263-6465.

Program Reports

Administration

Introduction of New Staff Member

Mr. Hinchee introduced the newest member of the Board staff, who filled the receptionist position, Angelica Franco.

Budget Update

Mr. Hinchee referred to Exhibit D regarding the Board expenditures for the past three years and the budget for the current year.

Board Member Per Diem

Mr. Hinchee referred to Exhibit E regarding the Board member per diem. Mr. Hinchee stated that any activity that will be charged needs to be substantial Board business only.

Enforcement

Mr. Hinchee referred to Exhibits F, G, H and I. Mr. Hinchee reported on the List of Complaints, Cost Recovery Data, Pending Disciplinary Actions and List of Current Probationers. Judge Duvaras commented on the Cost Recovery Data and consideration of taking legal action. Dr. Stanfield stated that both she and Judge Duvaras will form a committee to review the outstanding balances.

Licensing

Mr. Hinchee referred to Exhibits J and K. Mr. Hinchee reported on the License Statistics and California Law and Professional Practices Exam (CLPPE) results.

Discussion and Action re: Withdrawal of CPR Provider Approval Letter

Ms. Matthews referred to Exhibit L regarding the withdrawal of CPR provider approval letter. This letter will be effective immediately.

Dr. Stanfield asked for a motion to approve the withdrawal of CPR provider letter.

DR. HAMBY MOVED TO ADOPT THE WITHDRAWEL OF CPR PROVIDER LETTER. DR. COLUMBU SECONDED THE MOTION. VOTE: 5-0. MOTION CARRIED.

Discussion: Palmer College (Florida) Letter

Mr. Bishop referred to Exhibit Item M regarding the letter from Palmer College of Chiropractic – Florida dated June 29, 2006, indicating that an application was attached to the letter. Mr. Bishop further stated that the Board office received the one-page letter only and no application was attached.

Dr. Hamby commented that the Board needs to make a decision on whose guidelines and criteria will be accepted for acceptance and approval of chiropractic college applications. Mr. Bishop clarified that this Board has never delegated its authority to another agency to make determination. The Board has simply said that before it will consider an application, the application must be accredited by one of the approved private accrediting agencies. Mr. Bishop further stated that once the application has been approved by an accrediting agency, the college must still meet California guidelines.

Mr. Larry Patten, Mr. Peter Martin and Mr. Douglas Hoyle, all representing Palmer College commented that although they initially withdrew their application, they have since received advice and wanted to re-establish their application. They further stated that it was their understanding that they were re-activating the application on file. Mr. Bishop clarified that the Board accepted the withdrawal of the application during the April 27, 2006 Board meeting and a new application must be submitted. After lengthy discussion, Dr. Stanfield deferred this matter to the College Approval Committee for additional review.

JUDGE DUVARAS MADE A MOTION TO ACCEPT THE WITHDRAWN APPLICATION AND PROVIDE A 3 MONTH PROVISIONAL APPROVAL TO PALMER COLLEGE (FLORIDA). DR. COLUMBU SECONDED THE MOTION. VOTE: 2-3. MOTION FAILED.

Continuing Education Committee

Discussion and Action re: Approval of Chiropractic Techniques

Dr. Hamby referred to Exhibit N and asked for approval of adjustive techniques.

DR. TYLER MADE A MOTION TO APPROVE THE ADJUSTIVE TECHNIQUES. DR. COLUMBU SECONDED THE MOTION. VOTE: 5-0. MOTION CARRIED.

Dr. Hamby referred to the "Notice to All Providers" and asked for a motion to accept.

DR. TYLER MADE A MOTION TO ACCEPT THE NOTICE TO ALL PROVIDERS. DR. COLUMBU SECONDED THE MOTION. VOTE: 5-0. MOTION CARRIED.

Discussion re: Draft CE Criteria

Dr. Hamby referred to Exhibit O. Dr. Hamby then referred the matter to Mr. Bishop for clarification in regards to 50 minutes versus 60 minutes. Mr. Bishop stated that the current regulation reads that if a student is absent for more than 10 minutes per hour of instruction, the student will not get credit for the Continuing Education (CE) course. This does not mean the CE course has to be 50 minutes long, the duration of the CE course is to be 60 minutes.

Dr. Stanfield, DC, called a ten-minute recess to review the criteria.

Dr. Hamby explained that the CE criteria in the Board packet were incorrect. The corrected criteria were given to Kristen Shultz representing California Chiropractic Association and Kendra Holloway representing Life Chiropractic College West for review. Ms. Shultz and Ms. Holloway asked that the approval of the Draft version of the CE Criteria be put on hold until everyone has a chance to review. Ms. Shultz commented that the CE regulations need to be re-written to include the CE criteria. Dr. Stanfield deferred this matter to the Regulation Committee for further review.

Other Current Issues

Dr. Hamby referred to separate letters from staff counsel Paul Bishop written to both Dr. Louis Ringler, DC, and Dr. Michael Sladich, DC regarding CE provider approval. Mr. Bishop's letter stated Dr. Ringler and Dr. Sladich were not withdrawn as providers at this time. However, the criteria set-forth in the letters must be complied with for all courses offered after August 1, 2006.

Dr. Hamby asked about expenses for out-of-state travel for the current fiscal year. Ms. Hayes stated that all out-of-state travel has to be approved by the Governor's office prior to the fiscal year. Ms. Hayes said she would notify the Board members when they could submit out-of-state travel requests for the next fiscal year.

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September 20, 2006

Douglas E. Hoyle, Ph.D.
Palmer College of Chiropractic
723 Brady Street
Davenport, Iowa 52803

Dear Dr. Hoyle,

This is to inform you that the application form for New Chiropractic College Approval is now available on our website. Although the Board has not heard from Palmer since the last meeting held on August 10, 2006, it appears that you are still interested in applying for college board-approval from the Board of Chiropractic Examiners. Therefore, I am enclosing a copy of the new application form for your use to reapply in the future.

If you have any questions, please call me at (916) 263-6465.

Sincerely,

Lavella Matthews
Licensing Program Analyst

Enclosure

23

FOLEY

FOLEY & LARDNER LLP

ATTORNEYS AT LAW

2029 CENTURY PARK EAST, SUITE 3500
LOS ANGELES, CA 90067-3021
310.277.2223 TEL
310.557.8475 FAX
www.foley.com

WRITER'S DIRECT LINE
310.975.7734
rleventhal@foley.com EMAIL

CLIENT/MATTER NUMBER
025785-0104

September 22, 2006

VIA FACSIMILE & OVERNIGHT

Confidential

Ms. Catherine A. Hayes
Executive Director
California Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833-2931

06 SEP 25 AM 10:56
BOARD OF CHIROPRACTIC EXAMINERS

Re: Palmer College of Chiropractic's Florida

Dear Ms. Hayes:

I am writing on behalf of my client, Palmer College of Chiropractic, regarding the California Board of Chiropractic Examiners' failure to approve the program offered by the College's Florida branch campus. As a result of the Board's failure, the College's Florida graduates have been precluded from sitting for the California licensing exam. This unfairly disadvantages Palmer graduates, who have received top-notch training from a new branch of one of the oldest and most prestigious chiropractic colleges in the country, and deprives California residents of a source of high quality well-trained chiropractors.

The approval process for Palmer College's Florida campus has been both long and extremely frustrating. Despite the fact that Palmer Florida is a branch campus of the oldest chiropractic school in the country, a school that was founded by the founder of chiropractic itself, a school that has been accredited by the Council on Chiropractic Education and has been approved in every state other than California, the California Board of Chiropractic Examiners has refused to approve Palmer Florida without articulating any cogent reason for its refusal. In fact, during certain Board meetings, Board members have admitted that they are applying different standards to Palmer than those that were applied to currently approved chiropractic colleges. It was because of this inexplicable disparate treatment that Palmer Florida temporarily withdrew its application at the April 2006 Board Meeting so that it could review its legal options for obtaining the Board approval to which it is entitled.

The Board's conduct in response to Palmer's June 29, 2006, reinstatement of its application further demonstrates the Board's failure to afford Palmer due process. Instead of considering the application and responding to it as required by the California Chiropractic Act, the Board refused to consider the application, claiming that the Board had secretly decided not to

accept any applications until the Board revises its application form at some future undisclosed date.

Despite this unfair treatment, Palmer has done its best to work with the Board. Palmer attended the August 2006 Board meeting but was unable to even get the Board to commit to a date certain upon which the new application form would be complete or a date on which the Board would be willing to consider the substance of Palmer's application. Even worse, the Board has refused to put Palmer's application on the agenda for the September meeting that will take place next week.

There is no legitimate excuse for the Board's delay in approving Palmer Florida. The California Chiropractic Act specifically sets forth what a chiropractic school must do in order to be eligible for Board approval: It must (1) "hav[e] status with the accrediting agency;" (2) "meet[ ] the requirements of Section 5 of this Act;" and (3) comply with "the rules and regulations adopted by the Board." In the present case, it is uncontroverted that Palmer Florida meets all three criteria: Palmer is accredited by the Council on Chiropractic Education (the accrediting authority), Palmer's curriculum complies with each of the requirements set forth in Section 5 of the Act, and Palmer has complied with all of the published rules and regulations legitimately adopted by the Board.[1]

Since Palmer meets all of the requirements enumerated in the Act, the Board should recognize Palmer's existing application and should approve Palmer so that Palmer's graduates will not be deprived of the ability to sit for the California licensing exam. In the alternative, please provide Palmer with a bill of particulars so that it may correct or address any perceived deficiencies within sixty days and obtain approval as is its right under Section 331.15(c) of the Board's regulations.

The time has come for the Board to review Palmer's application on its merits and to either grant preliminary approval or to identify any perceived deficiencies and give Palmer an opportunity to cure them. I therefore request that the Board acknowledge that Palmer's application is pending before it, and that it will review and respond to that application as it is obligated to do pursuant to the Chiropractic Act and the Board's regulations. I further request that Palmer be added to the agenda for the Board's upcoming September meeting in order to expedite the review process.

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[1] Unfortunately, due to an error, for a period of time Palmer Florida's manual stated that graduates were to perform twenty physical examinations, instead of the twenty-five required by the regulations. As soon as this unfortunate mistake was discovered, it was immediately corrected and all current students are required to perform twenty-five physical examinations.

I look forward to your timely response.

Sincerely,

Robert C. Leventhal

RCL:ld

cc: Barbara A. Stanfield, D.C. – Chair (Via Facsimile & Overnight Mail)
R. Michael Hamby, D.C. - Vice Chair (Via Facsimile & Overnight Mail)
Richard H. Tyler, D.C. – Secretary (Via Facsimile & Overnight Mail)
David F. Yoshida, D.C. (Via Facsimile & Overnight Mail)
Francesco Columbu, D.C. (Via Facsimile & Overnight Mail)
Judge James Duvaras, Ret., Public Member (Via Facsimile & Overnight Mail)

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FOLEY

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CLIENT/MATTER NUMBER
025785-0104

BOARD OF CHIROPRACTIC EXAMINERS
06 SEP 27 AM 11:28

September 26, 2006

VIA FACSIMILE & OVERNIGHT MAIL

Mr. Paul Bishop
Board Counsel
California Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833-2931

Re: Palmer College of Chiropractic Florida

Dear Mr. Bishop:

Thank you for your telephone call in which you informed me that the California Board of Chiropractic Examiners has posted a new version of the Chiropractic College Application Form on its website. I was, of course, surprised by this news because the Board committed to discuss the new application form during its monthly meeting, and had even placed the form on the agenda for the Board meeting that will take place later this week. It appears highly irregular that the Board (or its staff) would take a step of this magnitude without the opportunity for any public discussion. In any event, I have reviewed the new form and am writing to provide you and the Board with Palmer's comments.

The Board's new form should have no effect on Palmer's request for Board approval because Palmer's application is already before the Board. I attach a copy of the application for your convenience. It would obviously not be consistent with due process for the Board to disregard Palmer's pending application and insist that Palmer complete the new secretly adopted application form. I therefore request that you, or the appropriate Board representative, confirm in writing that Palmer's existing application is under review and that the Board will respond to that application in a timely manner either by approving Palmer or by providing it with a bill of particulars specifying any alleged deficiencies pursuant to section 331.15 (c) of the Regulations.

To the extent that the Board attempts to require Palmer to complete the new form, Palmer's objections are not limited to the procedural impropriety of the adoption of the new form and the Board's failure to consider Palmer's existing application. Palmer also objects to the contents of the new form itself. The new form seeks information that is not relevant to the existing statutory and regulatory approval requirements and appears to be an attempt to add new regulations without following the required regulatory process. For example, the form seeks information regarding communications with the accrediting agency, CCE, and the site visits that CCE has conducted. This information is irrelevant, because the Act provides that a chiropractic college is eligible for Board approval if it is **accredited** by, or has other status with, CCE. The Act does not give the Board

authority to second-guess CCE's accreditation of the college. Likewise, there is nothing in the Regulations that makes CCE materials relevant to the approval process.[1] The questions and requests for information regarding CCE are new requirements that are not contained in the Regulations. They appear to be an after the fact attempt to legitimize the Board's prior focus on CCE correspondence.

The portion of the application that purports to address California specific requirements is equally troubling. Instead of consisting of a series of straight forward questions or requests for information of the type normally contained in an application, the Board's new application simply lists each of the sections of the Regulations that contain chiropractic college requirements and seeks a "detailed explanation of how the college complies with each [of the requirements]." This question is so ambiguous that it is impossible for an applicant to determine the scope or nature of requested information. It appears designed, not to lead to the collection of specific information that the Board needs in order to make a decision, but rather to provide the Board with endless opportunities to complain that the information provided by the applicant is inadequate and does not contain the information that the Board actually wanted. The burden of completing the application is unnecessarily increased by the requirement that separate information be provided for each year that the college operated as a CCE approved school, despite the fact that Board approval is typically not retroactive to the day of the initial CCE approval.

For the foregoing reasons, it is clear that the Board's new application is not designed to provide chiropractic colleges with a fair opportunity to demonstrate that they meet the requirements for approval set forth in the Act and Regulations. Rather, it appears to be designed to substantively change in the requirements for Board approval from those set forth in the Act and the Regulations by adding new incompletely articulated requirements that apparently have been secretly adopted by the Board (or its staff) without following the required rule making procedures.

Please advise me of the procedures that the Board intends to follow in processing Palmer's request for Board approval so that Palmer may take the appropriate steps to insure that its application

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[1] The Regulations make reference to CCE as the Board's duly authorized representative for the purpose of inspecting colleges to determine their compliance with the Board's Regulations. To the extent that the Board has contracted with CCP to perform inspections of this type, it should obtain the inspection reports directly from CCE. It should not attempt to require chiropractic colleges to provide the Board with confidential communications with CCE **acting in its capacity as an accrediting agency.**

is reviewed in the manner required by the Act and the Regulations. I look forward to your timely response.[2]

Sincerely,

Robert C. Leventhal

RCL:ld
Enclosure

cc: Ms. Catherine A. Hayes, Executive Director (Via Facsimile & Overnight Mail)
Barbara A. Stanfield, D.C., Chair (Via Facsimile & Overnight Mail)
R. Michael Hamby, D.C., Vice Chair (Via Facsimile & Overnight Mail)
Richard H. Tyler, D.C., Secretary (Via Facsimile & Overnight Mail)
David F. Yoshida, D.C., (Via Facsimile & Overnight Mail)
Francesco Columbu, D.C., (Via Facsimile & Overnight Mail)
Judge James Duvaras, Ret., Public Member (Via Facsimile & Overnight Mail)

[2] Palmer representatives will attend the Board's September meeting and will be prepared to address issues regarding the approval of the Florida program despite the staff's refusal to put Palmer's application on the agenda.

STATE OF CALIFORNIA — ARNOLD SCHWARZENEGGER, Governor

Board of Chiropractic Examiners
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APPLICATION FOR APPROVAL OF CHIROPRACTIC COLLEGES ACADEMIC YEARS JULY 1, 2004 – JUNE 30, 2007

The Board of Chiropractic Examiners is required by Title 16, Section 330 of the California Code of Regulations to approve chiropractic colleges for applicant licensure purposes. To ensure that your college is evaluated for approval for the three-year period beginning July 1, 2004, please complete this application and return it to the Board's office.

Withdrawn 4/26/06

1. Name of chiropractic college: Palmer College of Chiropractic Florida

   Address: 4777 City Center Parkway

   City: Port Orange State: FL Zip Code: 32129-4153

2. Type of approval sought: ☒ Initial Approval ☐ Continued Approval

3. Accredited by the Council on Chiropractic Education (CCE)? ☒ Yes ☐ No
   If yes: Date application for reaffirmation of accreditation is due: May 2006
   Date application for continued accreditation is due: _____

4. Has the school entered into any resolutions or agreements with CCE that deviate from the Commission on Accreditation (COA) standards? ☐ Yes ☒ No
   If yes, please list: _____

5. Accredited by any other accrediting agency? ☒ Yes ☐ No
   If yes: Name of accrediting body: North Central Association of Colleges and Schools
   Date of application for continued accreditation is due: 2008

6. Affiliated with a health science teaching center? ☐ Yes ☒ No

   If yes, please identify: _____

   If no, please state briefly how clinical instruction is provided:

   Classroom instruction, Observation and Practical Experience in Campus and Outreach Clinic Settings

7. Please enclose a copy of the college's bulletin, catalogue and a copy of the last CCE inspection report.

8. Does the school:

   a. Provide all students with training in performing completed histories and physicals? ..... [X] Yes [ ] No
   b. Cover all subjects currently required by sections 331.12.2? ..... [X] Yes [ ] No

9. What is the ratio of full-time faculty members to students? 1:14

10. Does the actual clinical experience provided to each student include?:

Examining, Diagnosing and Treatment	[X] Yes [ ] No
Spinal Analysis	[X] Yes [ ] No
Palpation	[X] Yes [ ] No
Chiropractic Philosophy	[X] Yes [ ] No
Symptomatology	[X] Yes [ ] No
Laboratory and Physical Diagnosis	[X] Yes [ ] No
X-ray Interpretation	[X] Yes [ ] No
Postural Analysis	[X] Yes [ ] No
Diagnostic Impressions	[X] Yes [ ] No
Adjustive Technique	[X] Yes [ ] No
Psychological Counseling	[X] Yes [ ] No
Demonstration and Practice of Physical Therapy Procedures	[X] Yes [ ] No

11. Do the minimum graduation requirements for each student include?:

25 Physical Examinations, of which at least 10 must be outside patients	[X] Yes [ ] No
25 Urinalyses	[X] Yes [ ] No
20 CBC's	[X] Yes [ ] No
10 Blood Chemistries	[X] Yes [ ] No
30 X-ray Examinations	[X] Yes [ ] No
10 Proctologic Examinations	[X] Yes [ ] No
10 Gynecologic Examinations	[X] Yes [ ] No
250 Patient Treatments (Visits)	[X] Yes [ ] No
Written interpretation of at least 30 different X-ray series, while a senior in the clinic	[X] Yes [ ] No
500 Hours of Practical Clinical Experience	[X] Yes [ ] No

12. Please use the space below to provide any comments or additional information you believe will be helpful to the Board in evaluating this application.

Please complete the chart below detailing the number of hours taught in each required subject area.

Subject	Minimum Hours Required	Hours Completed by Applicant
Anatomy, including embryology, histology, and human dissection	616	624
Physiology (must include laboratory work)	264	264
Biochemistry, clinical nutrition, and dietetics	264	264
Pathology, bacteriology, and toxicology	440	444
Public health, hygiene and sanitation, and emergency care	132	132
Diagnosis **Please include other subjects and hours not listed on this section.** * Minimum Additional Diagnostic Subjects	**792 including:** 1) E.E.N.T. 2) Serology 3) Dermatology 4) Syphilology 5) Geriatrics 6) x-ray interpretation 7) Neurology	854 including: 1) 24 2) 12 3) 24 4) 24 5) 60 6) 204 7) 96 *408
Obstetrics, gynecology and pediatrics	132	132
Principles and practice of chiropractic **Please include other subjects and hours not listed on this section.**	**618 including:** 1) chiro. technique 2) chiro. philosophy 3) orthopedics 4) x-ray technique& radiation protection 5) **430 hours clinic** including office procedures	1416 including: 1) 288 2) 108 3) 36 4) 84 5) 900
Physiotherapy	120	120
Psychiatry	32	36
Electives	660	660
Total hours	**4,400**	4,944

Clinical Experience	Minimum Number Required	Number Completed by Applicant
1) Physical Examinations	25 (10 not student patients)	1) 25
2) Urinalysis	25	2) 25
3) CBC's	20	3) 20
4) Blood chemistries	10	4) 10
5) X-ray examinations	30	5) 30
6) Proctologic examinations	10	6) 10
7) Gynecologic examinations	10	7) 10
8) Patient treatments including diagnostic, adjustive techniques and patient evaluation	250	8) 250
9) Written interpretation of X-ray (film or slide)	30	9) 30
10) Practical clinical experience hours	518	10) 720
11) Physiotherapy procedures performed by the student on their own clinic patients	30	11) 30

Pursuant to Section 4 of the Chiropractic Initiative Act of California and Title 16, California Code of Regulations, Section 331.11, the California Board of Chiropractic Examiners will only approve chiropractic colleges that strictly adhere to the standards adopted by The Council on Chiropractic Education, Commission on Accreditation. Failure to comply with this requirement will result in denial of approval status or be cause for revocation of continued approval.

I certify under the penalty of perjury that the foregoing information contained in this application and any attachments here to are true and correct, and that all subjects referred to herein are contained within the established curriculum as set forth in California Code of Regulations, Title 16, Section 331.12.2. Providing false information or omitting required information may constitute grounds for denial of approval status.

Signature of President

May 11, 2005
Date

Donald W. Kern, D.C.
Type or Print President's Name

(affix college seal)

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

Board of Chiropractic Examiners
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September 27, 2006

Robert C. Leventhal
Attorney at Law
2029 Century Park East, Suite 3500
Los Angeles, CA 90067-3021

Dear Mr. Leventhal:

Re: Palmer College of Chiropractic Florida

This is in response to your letter dated September 26, 2006, Palmer College of Chiropractic Florida (PCCF). On August 10, 2006, during a meeting of the California Board of Chiropractic Examiners (BCE), your client, PCCF, was advised that since it had formally withdrawn its application for approval and had not submitted a new application, any new application would need to be on the new application form being developed by staff. At that meeting staff was also directed to give priority to completing the new form and PCCF was advised that it should communicate with staff if it wanted to expedite the process.

Although PCCF has not communicated with staff since that meeting, on September 20, 2006, it was sent a copy of the new application form. Your allegation to the contrary notwithstanding, the new form does not fundamentally change the application process. The new form simply gives the applicant an opportunity to provide the Board with as much relevant information as possible, to assist it in processing the application.

Your allegation that "the Act provides that a chiropractic college is eligible for Board approval if it is accredited by, or has other status with, CCE" is false. In addition to such accreditation chiropractic colleges are required to meet the requirements of section 5 of the Act as well as all of the rules and regulations adopted by the Board. See section 4 (g) (3) of the Act. Furthermore, at no time has the Board ever delegated its authority to approve new schools to the CCE or any other organization. The reason for the Board's request for communications between the applicant school and the CCE is to assist it in determining whether further site review is necessary. Otherwise the Board would not be able to know how much weight to give the CCE's accreditation.

Your letter further complains about the requirement in the new form for information for each of the years that the applicant is seeking approval. However, such information is critically necessary for the Board to determine the practical effective date of its approval.

Your letter also reflects a lack of information concerning the history of your clients attempt to get the Board's approval. The Board's records reflect that PCCF submitted, the now withdrawn application, on May 13, 2005. On June 21, 2005, the Board first considered that application but tabled it pending further information on the outcome of a CCE site report. On October 20, 2005, the matter was continued again because PCCF had failed to provide the information on the CCE site report.

At its November 17, 2005, meeting the Board formally directed PCCF to provide copies of its correspondence with CCE to assist it in processing the application, because of concerns over issues raised by CCE in its reports.

On January 19, 2006 the Board again considered the application but was forced to continue further action until its next meeting to resolve issues raised by the CCE reports and staff. That delay again was due to the lack of information provided by PCCF. After a series of communications between staff and PCCF, concerning discrepancies between representations made to the CCE and the Board, PCCF formally withdrew its application before the Board could act on it. Due to the issues and problems that were identified concerning the old application form, it was withdrawn and the Board staff began preparing a revised application form.

Nothing further was received from PCCF until June 29, 2006, when your client advised the Board in a letter that it intended to reapply for approval. However, no application was submitted. On July 11, 2006, PCCF was advised that it did not have an application on file for consideration and that a new form was being developed.

On August 10, 2006, PCCF appeared before the Board and requested that the Board allow it to reaccept its withdrawn application and grant it limited approval so its past graduates could qualify for licensure in California. That request was formally rejected; however, the Board did direct its staff to give a high priority to completing the revision of the application form. PCCF was also advised that if it wanted to expedite the process it should communicate with Board staff and submit a new application.

As of the date of this letter, PCCF has not communicated with staff since the August 10, 2006, Board meeting. Accordingly, your client does not have an application filed with the Board for it to consider.

Sincerely,

Paul V. Bishop
Staff Counsel

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November 16, 2006

Palmer College of Chiropractic
Larry Patten, Chief Executive Officer
723 Brady Street
Davenport, Iowa 52803

Dear Mr. Patten:

At the direction of the College Approval Committee of the Board of Chiropractic Examiners (Board), I am writing concerning the efforts of Palmer College of Chiropractic Florida (PCCF) to obtain formal approval of the Board. On September 27, 2006, I sent the attached letter to Mr. Leventhal, in response to his letter alleging that PCCF was not being treated fairly in the application process, clarifying the Boards position on the matter.

On September 28, 2006, you, Mr. Leventhal and Mr. Martin all appeared before the Board during the period reserved for public comment. Although complaints about the form of the new application were raised, you indicated that PCCF intended to provide the information required by the Board. However, to date the Board has not received any application or other communication from PCCF.

As you have been previously advised, the application of PCCF, which was formally withdrawn at the Board's meeting on April 27, 2006, can not be resubmitted or reactivated. Accordingly, the Board will not consider the matter further until a new application is received. The new application is required to be on the form which was sent to PCCF in September 2006. That form is also posted on the Board's website. As soon as the new application is received it will be processed as quickly as possible.

If I can be of any further assistance in this matter, please do not hesitate to contact me.

Sincerely,

Paul Bishop
Staff Counsel

Enclosure

cc: Richard H. Tyler, D.C., College Approval Committee
David F. Yoshida, D.C., College Approval Committee
Robert C. Leventhal, Esq.

AGENDA ITEM Q

TIME OF EVENTS CONCERNING PROPOSED REGULATION - SECTION 361 MANIPULATION UNDER ANESTHESIA (MUA)

Exhibit

1. **April 23, 2003 Board Minutes** – Proposed language initially introduced to the Board members for discussion and action.

2. **July 24, 2003 Board Minutes** – Mr. Marder moved to adopt the proposed regulation and proceed to public hearing. Dr. Stanfield seconded the motion. The motion was approved.

3. **October 23, 2003** – Copy of Notice for public hearing.

4. **October 23, 2003** – Written comments received during the 45-day comment period.

5. **January 15, 2004 Board Minutes** – Mr. Marder moved to table board action on the proposed regulation in order to collect sufficient information to develop an appropriate regulation, and hold an open board meeting to address the MUA issue and move forward with a regulation. Mr. Lewis seconded the motion. The motion was approved.

6. **March 18, 2004 Board Minutes** – Meeting held to take public input on the issue of MUA. Copies of handouts presented at the meeting.

7. **April 22, 2004 Board Minutes** – Dr. Stanfield moved to adopt the proposed language, as modified, and to proceed to public hearing. Dr. Hamby seconded the motion. The motion was approved.

8. **January 20, 2005 Board Minutes** – Dr. Hamby motioned to amend the regulation by removing section "d" from the language. Dr. Stanfield seconded the motion. The motion was approved..

9. **August 24, 2005** – Copies of documents from the rulemaking file submitted to the Office of Administrative Law (OAL).

10. **October 5, 2005** – Notice of disapproval from OAL

11. **October 13, 2005** – Memorandum to David Hinchee from Bill Gausewitz, OAL.

12. **October 20, 2005 Board Minutes** – Discussion on whether to address OAL's concerns or withdraw the regulation.

13. **November 17, 2005 Board Minutes** – Judge Duvaras moved to withdraw the MUA regulation. Dr. Yoshida seconded the motion. The motion was approved.

Administrative Law Judge Janice Rovner presided over the following petition hearings:

- Richard A. Warner – Reinstatement of Revoked License

Following oral testimony, the Board recessed into executive session to consider Mr. Warner's Petition for Reinstatement of Revoked License.

- Wayne W. Baird, D.C. – Early Termination of Probation

Following oral testimony, the Board recessed into executive session to consider Dr. Baird's Petition for Early Termination of Probation.

11. Nonadopt Hearing

Administrative Law Judge Janice Rovner presided over the following nonadopt hearing:

- John H. Cymerint, D.C.

The Board reconvened in open session at 1:22 p.m.

12. Enforcement/Regulation Review Committee

A. Discussion and Action re Regulation Proposals

Mr. Marder referred the Board to Exhibit K, proposed regulation Section 361 (Manipulation Under Anesthesia [MUA]) and proposed amendment to Section 325.1 (License Reapplication).

Mr. Marder explained the language contained in the proposed MUA regulation, and shared the written public comments received by the Board, dealing with whether 32 hours of training was sufficient, or whether 60 hours would be more appropriate, and whether using nurse anesthesiologists without medical doctors participating in the procedures was in the best interest of the patients.

Larry Tain, D.C. and member of the Industrial Medical Council (IMC), commented that IMC has been approached primarily by the payers regarding MUA. He indicated that since MUA is being practiced in California and because, in his role on the IMC, he has participated in hearings regarding the issue, he feels it is important that the Board develop a reasonable approach to MUA relative to certification and training in order to benefit the public. Dr. Tain stated that the majority of IMC's MUA ground rules would reflect the regulations promulgated by the Board.

Dr. Tain referred the Board to his comments made in response to the draft regulation. He recommended that the Board require standard educational requirements. Mr. Lou Ringler of Innercalm Associates indicated that the curricula of the current training providers are essentially the same, and stressed that a unified protocol for the curricula should be submitted to the Board for consideration. Mr. Marder agreed the Committee would review suggested curricula protocol from Dr. Tain and Mr. Ringler to ascertain whether such would be appropriate for inclusion in the regulation.

Fred Lerner, D.C., addressed the Board in his capacity as a certified MUA practitioner. He pointed out that MUA standards have been in effect for at least three decades under the National Association of Manipulation Under Anesthesia Physicians (NAMUAP), which he had sent to Dr. Stanfield, and that existing providers are following those standards. Dr. Lerner expressed his concern that the proposed regulation merely required a minimum of 32 hours of training with no hourly course breakdown to assure clinical competency.

Dr. Tain pointed out that chiropractors would not be using new techniques in the MUA procedures, but modified techniques that they already practice and have been licensed to perform. He also recommended that the training be conducted as a postgraduate training program. Dr. Tain urged the consideration of Board-recognized certifications in specialty areas, such as MUA. Mr. Lerner suggested the Board consider a 12-hour refresher course every three years rather than 32 hours of retraining.

Mr. Marder suggested deleting the reference to 32 hours of training and merely refer to Board-approved guidelines, which would enable modifications without going through the rulemaking process. Dr. Tain indicated that the Board should not require training facilities to be CCE-approved. He also recommended that MUA trainers meet certain requirements.

Gerard Clum, D.C., President of Life Chiropractic College West, and Reed Phillips, D.C., President of Southern California University of Health Sciences, informed the Board that CCE has no guidelines, criteria or standards relative to MUA. Dr. Clum stressed that the standards relative to continuing education or postgraduate education are voluntary on the part of the institution and that it is up to the institution to decide whether or not to be part of the accreditation review and reporting processes. Dr. Phillips indicated that a CCE task force is currently evaluating postgraduate and continuing education in order to draw a distinction between the two as to what role CCE might play regarding accreditation in areas such as the diplomate and master's programs.

Mr. Marder urged Drs. Tain and Lerner, and Mr. Ringler to submit their further suggestions and comments in writing for Committee consideration in finalizing the proposed language.

Dr. Hayes asked for a motion to adopt or table proposed regulation Section 361.

DR. STANFIELD MOVED TO TABLE PROPOSED REGULATION SECTION 361. DR. YOSHIDA SECONDED THE MOTION AND THE MOTION WAS APPROVED.

Mr. Marder explained that the proposed license reapplication regulation prohibits applicants denied licensure pursuant to Section 10(b) of the Act or Business and Professions Code section 480 after administrative proceedings may not reapply to the Board for a period of two years from the date of the decision.

Dr. Hayes asked for a motion to adopt proposed regulation Section 325.1 and proceed to public hearing.

DR. YOSHIDA MOVED TO ADOPT PROPOSED REGULATION SECTION 325.1 AND PROCEED TO PUBLIC HEARING. MR. MARDER SECONDED THE MOTION AND THE MOTION WAS APPROVED.

B. Other Current Issues

Mr. Marder referred the Board to Exhibit L, the Dual License fact sheet, and provided a brief explanation regarding the need for a fact sheet providing guidelines to Doctors of Chiropractic holding two or more healing art licenses.

13. Public Comment

Steve Hartzell, Executive Officer of the Physical Therapy Board, explained that he had been asked to attend the Board's meetings when possible and invited Board members and/or staff to attend Physical Therapy Board meetings in return.

Gary Schultz, D.C., of Southern California University of Health Sciences, thanked the Board for clarifying the dual license issue with the fact sheet.

Bill Howe, Executive Director of the California Chiropractic Association (CCA), invited Board members to CCA's 75th Anniversary celebration in June 2003. Mr. Howe reported that the Department of Health Services' Radiologic Branch had contacted CCA soliciting recommendations for a chiropractor representative on an advisory task force.

14. Regulation/Board Relations Report

A. Regulation Hearings

Public hearings were held on the following proposed regulations:

- Section 356.1 – CPR/Basic Life Support
- Section 360 – Continuing Education Audits
- Section 390.2 – Violation Codes & Penalty

EXHIBIT K

PROPOSED NEW CCR SECTION 361

Purpose:

To provide the Board with oversight in the area of Manipulation Under Anesthesia (MUA) and licensees performing the procedure.

Summary:

Interest in MUA is increasing within the profession and MUA procedures are being performed by a growing number of licensees. It is in the interest of public safety that the Board should enact regulations specifying educational requirements for licensees who perform MUA procedures and the conditions under which they may perform them. The intention of these regulations is to minimize the likelihood of harm that may result to the consumer through the indiscriminate practice of MUA by licensees lacking adequate training and/or direction.

361. Manipulation Under Anesthesia (MUA).

Licensed Doctors of Chiropractic (licensees) may perform manipulation under anesthesia (MUA) provided that:

(a) The licensee has completed an MUA training course of not less than thirty-two (32) hours, sponsored by a chiropractic college accredited by the Council on Chiropractic Education (CCE); and

(b) The licensee has performed proctored MUA on a minimum of six (6) spinal or extra-spinal regions of two (2) patients as part of the CCE-approved MUA training course in an approved facility, as defined in (d), under the immediate and direct supervision of an active licensee who has met all of the requirements of this section; and

(c) The licensee shall complete, not less than every three (3) years, a re-training course in MUA, as defined in (a); and

(d) The MUA procedure is performed at a facility licensed or certified by the California Department of Health Services and approved by one (1) of the following: Joint Commission on Accreditation of Healthcare Organizations (JCAHO), Accreditation Association for Ambulatory Health Care (AAAHC), or the American Hospital Association (AHA); and

(e) The MUA procedure is performed with benefit of conscious sedation and not general anesthesia; and

(f) The anesthetic, sedative or other drug is administered by a licensed medical or osteopathic physician, certified in anesthesiology through the American Board of Medical Specialists (ABMS); and

(g) The patient has been evaluated by a medical or osteopathic physician who is familiar with MUA and has been approved by that physician for the MUA procedure and the administration of anesthesia, sedative or other drug; and

(h) The licensee performing the MUA procedure has examined the patient and the patient's medical history, has established medical necessity for the procedure and has ruled out possible contraindications for the procedure; and

(i) The licensee performing the MUA procedure is assisted by a second licensee meeting all of the requirements of this section; and

(j) The licensee carries malpractice insurance with an endorsement for MUA.

Licensees who received training in MUA prior to the effective date of this section shall be deemed to comply with the provisions of this section provided that:

1) The training was provided by a Board-approved continuing education provider within a period of three (3) years prior to the effective date of this section; and

2) The licensee has fulfilled requirements equivalent to those defined in (b) within a period of three (3) years prior to the effective date of this section; and

3) The provider became a Board-approved continuing education provider within one (1) year prior to the effective date of this section.

This regulation does not establish a chiropractic specialty and MUA-trained licensees may not use any related designation or title.

Failure to comply with the provisions of this section shall constitute unprofessional conduct.

NOTE: Authority cited: Section 1000-4(b), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii).

Reference: Section 1000-4(e), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii).

9. Chair's Report

Dr. Hayes announced that the Board would continue to meet quarterly and endeavor to add two additional meetings for the remainder of the year strictly dedicated to enforcement hearings. He announced that Mr. Marder had graciously offered a conference room in his office in which to hold the hearings.

Dr. Hayes stated that the Board must begin reviewing the Chiropractic Initiative Act in order to identify specific areas requiring update. He indicated this review would also allow the Board to better interpret the Act's requirement that chiropractic in California must be practiced as taught in chiropractic schools.

Dr. Hayes discussed the Board's obligation to rely on the Council on Chiropractic Education (CCE) for accrediting chiropractic colleges. He expressed concern with CCE's unwillingness to provide institution inspection reports to individual state boards. Dr. Hayes appointed Dr. Stanfield and Mr. Lewis to an ad hoc committee to research and report to the Board on CCE's information sharing policy. He also directed the committee to review the Board's options regarding accrediting agencies.

Dr. Hayes expressed his concern that although California produces the highest number of examination candidates, the National Board of Chiropractic Examiners (NBCE) is not responsive to the California Board. Dr. Hayes directed Dr. Yoshida to contact NBCE with California's concerns, and to report back to the Board at the October 2003 meeting.

Dr. Hayes acknowledged Mr. Marder's presence at the meeting, and reported that he and the Vice Chair have discussed the role of the Board in legislative issues. Mr. Marder stressed that Board members should involve themselves in the process when the Legislature is considering legislation that impacts the Board. Discussion ensued regarding the appropriate role the Board must assume in their legislative efforts. Dr. Hayes stressed that the Board's first and foremost duty is public protection through enforcement and licensing, which will not be set aside for any reason.

Dr. Hayes suggested that licensees who have been serving in the armed forces during the recent conflict in Iraq be exempt of fees and continuing education requirements during their year of service. Ms. Smith indicated staff would need to research the laws to assure this Board has statutory authority to grant such an exemption.

MR. MARDER MOVED THAT CHIROPRACTORS WHO PROVIDE PROOF OF SERVICE IN THE ARMED FORCES FOR ANY PURPOSE IN 2003 SHALL BE EXEMPT FROM LICENSING FEES AND CONTINUING EDUCATION REQUIREMENTS FOR 2003, SUBJECT TO EXISTING LAW ALLOWING SUCH EXEMPTIONS. DR. STANFIELD SECONDED THE MOTION. THE MOTION WAS APPROVED.

10. Enforcement/Regulation Review Committee

A. Discussion and Action re Regulation Proposals

Mr. Marder referred the Board to Exhibit G, proposed regulation Section 361 (Manipulation Under Anesthesia [MUA]).

Bill Howe, Executive Director for the California Chiropractic Association (CCA), indicated that CCA was concerned that reference to CCE-approved chiropractic colleges had been removed. CCA views CCE as the fundamental body that sets criteria for clinical coursework and is a public safety arm assuring licensees are receiving the clinical training necessary to safely serve and treat the public. Mr. Howe urged the Board to reconsider the use of CCE-approved courses in the proposed regulation. Mr. Marder explained that the training must be conducted at Board-approved chiropractic colleges and CCE would be used as the standard for Board-approval of the colleges. Discussion ensued regarding CCE and its current lack of involvement in postgraduate chiropractic education courses.

Mr. Howe stated that CCA's views medical necessity as a paramount issue regarding MUA, and is concerned that the proposed regulation does not address that issue. Ms. Smith explained that since Section 302 and other regulations address the issue of medical necessity, there is no need to include a similar provision in the proposed regulation. Dr. Hayes reiterated that the Board is interested in medical necessity for all aspects of chiropractic, not just MUA.

Ms. Hayes explained that because the Board currently has no regulation addressing MUA specifically, staff handles MUA complaints as it does all complaints, under Section 317, gross negligence, incompetence, etc. The proposed Section 361 will establish parameters for performing MUA via training and facilities, eliminating "back room" procedures, which are not in the best interest of the patient.

Mr. Howe expressed CCA's concern that the Board will not allow MUA-trained licensees to use a designated title associated with MUA. Ms. Smith pointed out that the Board has no regulations governing specialties and that CCA certainly would not consider a 32-hour training course as a basis for a specialty designation in MUA. Mr. Howe referred to CCA's request that CCE play an integral part in MUA training. Ms. Smith indicated that there have been no clinical trials conducted in MUA, leaving the Board with nowhere to turn to determine what would be adequate training. Mr. Marder clarified that although no specialty designation in MUA can be used, practitioners are not precluded from informing the public that they have met all requirements to practice MUA.

Mr. Howe explained that CCA is requesting that the Board not proceed with the proposed regulation until the CCE can and/or will sponsor training in MUA. He also expressed concern with the grandfather clause contained in the proposed language. Mr. Howe offered CCA's assistance in pursuing the CCE to develop appropriate standards and criteria for MUA.

Gary Schultz, D.C., representing Southern California University of Health Sciences (SCUHS) congratulated the Board in its endeavors in the area of MUA. He inquired whether the Board has considered what retraining would consist of and what level of competency would be required. Mr. Marder explained the difficulty in drafting regulations that contemplate everything that will occur. He indicated a broader regulation would allow the Board to create the standards. He pointed out that the regulation indicated that the standards will be Board-approved and competency will certainly be considered.

Carl Brakensiek, Executive Vice President for the California Society of Industrial Medicine and Surgery (CSIMS) expressed his concern that the Board is moving forward with the proposed regulation without setting forth specific criteria or identifying the standards the Board intends to put in place. He suggested the Board identify the criteria and develop the standards before proceeding. Mr. Marder pointed out that there are various laws that refer to criteria to be set and reviewed time to time. He indicated that the Board would be held to a standard of reasonableness and that by granting the Board the discretion to approve a set of standards, it is assumed that the Board will only adopt those standards that are reasonable and necessary and scientifically appropriate.

Ms. Smith expressed her agreement with Mr. Brakensiek that the Office of Administrative Law (OAL) may take issue with the fact that no criteria or guidelines had been established and set forth in regulation. She pointed out that the Board's Consultant, Dr. Craw, had originally referenced the guidelines developed by the National Academy of Manipulation Under Anesthesia Physicians (NAMUAP) in the proposed language, which reference was removed because of an objection to limiting the criteria to one entity.

Following a discussion regarding OAL requirements, Dr. Hayes asked for a motion to adopt proposed regulation Section 361.

MR. MARDER MOVED TO ADOPT THE PROPOSED REGULATION SECTION 361 AND PROCEED TO PUBLIC HEARING. DR. STANFIELD SECONDED THE MOTION AND THE MOTION WAS APPROVED.

11. Regulation/Board Relations Report

A. Regulation Hearings

Public Hearings were held on the following proposed regulations:

- Section 312, 312.1, 312.2. 312.3, 312.4 – Preceptor Programs
- Section 325.1 - License Reapplication

B. Regulatory and Legislative Update and Action

1. Pending Regulations

Ms. Matthews reported on regulations pending at the Office of Administrative Law and regulations that have taken effect since the last Board meeting.

EXHIBIT G
PROPOSED LANGUAGE
SECTION 361 - MUA

361. Manipulation Under Anesthesia (MUA).

A licensed Doctor of Chiropractic (licensee) may perform manipulation under anesthesia (MUA) provided that:

(a) The licensee has completed an MUA training course sponsored by a Board-approved chiropractic college and that is approved by the Board; and

(b) The licensee shall complete, not less than every three (3) years, a re-training course in MUA meeting the requirements of (a) of this section; and

(c) The MUA procedure is performed at a facility that is licensed or certified by the California Department of Health Services and approved by one (1) of the following: Joint Commission on Accreditation of Healthcare Organizations (JCAHO), Accreditation Association for Ambulatory Health Care (AAAHC), or the American Hospital Association (AHA); and

(d) The anesthetic, sedative or other drug is administered by a licensed medical or osteopathic physician, certified in anesthesiology through the American Board of Medical Specialists (ABMS); and

(e) The patient has been evaluated by a medical or osteopathic physician who is familiar with MUA and has been approved by that physician for the MUA procedure/s and the administration of anesthesia, sedative or other drug; and

(f) The licensee carries malpractice insurance with an endorsement for MUA; and

A licensee who received MUA training prior to the effective date of Section 361 shall be deemed to be in compliance with the provisions of this section provided that:

1) The training was provided by a Board-approved continuing education provider within a period of three (3) years prior to the effective date of this section; and

2) The MUA training provider was a Board-approved continuing education provider a minimum of one (1) year prior to the effective date of this section.

This regulation does not establish a chiropractic specialty or specialty certification and an MUA-trained licensee may not use any related designation or title.

Failure to comply with the provisions of this section shall constitute unprofessional conduct.

NOTE: Authority cited: Section 1000-4 (b), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii).

Reference: Section 1000-4 (e), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii).

STATE OF CALIFORNIA

GRAY DAVIS, Governor

Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931
Telephone (916) 263-5355 FAX (916) 263-5369
CA Relay Service TT/TDD (800) 735-2929
http://www.chiro.ca.gov

EXHIBIT 3

Title 16, Division 4. Board of Chiropractic Examiners

NOTICE IS HEREBY GIVEN that the Board of Chiropractic Examiners (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the State Capitol, Room 112, Sacramento, CA 95814 on October 23, 2003. Written comments must be received by the Board of Chiropractic Examiners at 2525 Natomas Park Drive, Suite 260, Sacramento, CA 95833-2931, or by fax at 916/263-5369, or by e-mail addressed to lmatthew@chiro.ca.gov no later than 5:00 p.m. on October 23, 2003, or must be received by the Board at the hearing. The Board of Chiropractic Examiners, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 4(b) of the Chiropractic Initiative Act [Section 1000-4(b) of the Business and Professions Code] and to implement, interpret or make specific Section 5 of the Chiropractic Initiative Act [Section 1000-5 of the Business and Professions Code], the Board of Chiropractic Examiners is considering changes to Division 4 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Adopt Section 361. Manipulation Under Anesthesia: Section 4(b) of the Chiropractic Initiative Act [Section 1000-4(b) of the Business and Professions Code] gives the Board the responsibility for implementing regulations they deem necessary for the performance of its work in order to maintain a high standard of professional services and the protection of the public.

Currently Section 302, Practice of Chiropractic allows chiropractors to manipulate and adjust the spinal column and other joints of the human body and there is no prohibition to the use of anesthesia in order to complete these manipulations. However, presently there is no regulation in effect that will ensure patient protection during treatment of manipulation under anesthesia (MUA). The adoption of Section 361 will enact a regulation which specifies the training required of licensees performing MUA procedures and define conditions under which the procedures may be performed.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an determination that the proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing business within the State of California, or the expansion of businesses currently doing business within the State of California.

Impact on Jobs/New Businesses: The Board of Chiropractic Examiners has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impacts on Representative Private Persons or Businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in complying with the proposed amendment.

Housing Costs: The Board has made an initial determination that the proposed regulatory action will not affect housing costs.

Small Business Impact: The proposed amendment may affect small businesses.

CONSIDERATION OF ALTERNATIVES

The Board of Chiropractic Examiners must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board of Chiropractic Examiners has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

FEDERAL LAW

The proposed amendments do not duplicate or conflict with any federal law.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulation and of the initial statement of reasons and other information, if any, may be obtained at the hearing or prior to the hearing upon request from:

Board of Chiropractic Examiners
Lavella Matthews, Regulations Coordinator
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833-4306

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at the above address.

As of the date this notice is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulation, and the initial statement of reasons.

CONTACT PERSON

Inquiries concerning the proposed administrative action and inquiries regarding the substance of the proposed regulation may be addressed to Lavella Matthews at the above address or at 916/263-6465. An alternative contact for information regarding the proposed amendment is Kim Smith at the above address or at 916/263-5355.

When prepared, copies of the final statement of reasons will be available from the contacts listed above.

INTERNET ACCESS OF DOCUMENTS

Copies of the documents referred to in this notice are available via Internet at www.chiro.ca.gov.

361. **Manipulation Under Anesthesia (MUA).**

A licensed Doctor of Chiropractic (licensee) may perform manipulation under anesthesia (MUA) provided that:

(a) The licensee has completed an MUA training course sponsored by a Board-approved chiropractic college and that is approved by the Board; and

(b) The licensee shall complete, not less than every three (3) years, a re-training course in MUA meeting the requirements of (a) of this section; and

(c) The MUA procedure is performed at a facility that is licensed or certified by the California Department of Health Services and approved by one (1) of the following: Joint Commission on Accreditation of Healthcare Organizations (JCAHO), Accreditation Association for Ambulatory Health Care (AAAHC), or the American Hospital Association (AHA); and

(d) The anesthetic, sedative or other drug is administered by a licensed medical or osteopathic physician, certified in anesthesiology through the American Board of Medical Specialists (ABMS); and

(e) The patient has been evaluated by a medical or osteopathic physician who is familiar with MUA and has been approved by that physician for the MUA procedure/s and the administration of anesthesia, sedative or other drug; and

(f) The licensee carries malpractice insurance with an endorsement for MUA; and

A licensee who received MUA training prior to the effective date of Section 361 shall be deemed to be in compliance with the provisions of this section provided that:

1) The training was provided by a Board-approved continuing education provider within a period of three (3) years prior to the effective date of this section; and

2) The MUA training provider was a Board-approved continuing education provider a

minimum of one (1) year prior to the effective date of this section.

This regulation does not establish a chiropractic specialty or specialty certification and an MUA-trained licensee may not use any related designation or title.

Failure to comply with the provisions of this section shall constitute unprofessional conduct.

NOTE: Authority cited: Section 1000-4 (b), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii).

Reference: Section 1000-4 (e), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii).

STATE OF CALIFORNIA

GRAY DAVIS, Governor

Board of Chiropractic Examiners
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Consumer Complaint Hotline (866)543-1311
http://www.chiro.ca.gov

Board of Chiropractic Examiners

Initial Statement of Reasons

Hearing Date: October 23, 2003

Subject Matter of Proposed Regulations: Manipulation Under Anesthesia (MUA)

Sections Affected: Revise Section 361 of Division 4 of Title 16.

Problem Addressed: Section 4(b) of the Chiropractic Initiative Act of California gives the Board the responsibility for adopting regulations necessary for the performance of its work, effective enforcement and administration of this act, and the protection of the public.

Currently Section 302, Practice of Chiropractic allows chiropractors to manipulate and adjust the spinal column and other joints of the human body and there is no prohibition to the use of anesthesia during these manipulations. However, presently there is no regulation in effect that would ensure patient protection during treatment of manipulation under anesthesia (MUA) and licensees performing the procedure.

Specific Purpose of Each Adoption, Amendment, Or Repeal: The adoption of Section 361 will enact a regulation, which specifies the educational requirements for licensees who perform MUA procedures and the conditions under which the procedures may be performed.

Factual Basis

Factual basis for determination that each proposed change is necessary:

The mission of the Board of Chiropractic Examiners is to ensure protection of consumers through proper use of the licensing and enforcement authorities assigned to it by the Chiropractic Initiative Act. The Board investigates complaints and takes disciplinary action against licensees who present a danger to the health and safety of consumers.

Interest in MUA is increasing within the profession, and, thus, MUA procedures are being performed by a growing number of licensees. It is in the interest of the public safety that the Board should enact a regulation specifying educational requirements for licensees who perform MUA procedures and define the conditions under which the procedures may be performed.

The intention of this regulation is to minimize the likelihood of harm that may come as a result to the consumer through the indiscriminate practice of MUA by licensees lacking adequate training and/or direction. To ensure the highest quality of care for patients, licensees will be required to complete MUA training courses from a board-approved chiropractic college and retraining courses every three years thereafter. In addition, MUA procedures must be performed at a facility that is licensed or certified by the California Department of Health Services and approved by the appropriate accrediting agencies.

Underlying Data

Technical, theoretical or empirical studies or reports relied upon (if any): None

Business Impact

The Board has made an initial determination that the proposed regulatory action will not eliminate existing business, or the expansion of businesses currently doing business, within the State of California.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No alternative that was considered would be either more effective than or equally as effective as and less burdensome to affected private persons than the proposed regulation.

CANA, INC.

CALIFORNIA ASSOCIATION OF NURSE ANESTHETISTS, INC.
224 WEST MAPLE STREET, ORANGE CA 92866
OFFICE 714/744-0155 • FAX 714/744-8975
www.canainc.org

EXHIBIT 4

BOARD OF CHIROPRACTIC EXAMINERS
03 OCT 20 PM 12:13

October 16, 2003

Board of Chiropractic Examiners
Lavella Matthews, Regulations Coordinator
2525 Natomas Park Drive, Suite 260
Sacramento CA 95833-4306

Dear Board of Examiners:

I am writing on behalf of the California Association of Nurse Anesthetists whose membership consists of more than 1,000 practicing Certified Registered Nurse Anesthetists (CRNAs) located throughout California. CRNAs work in rural and urban settings, offices, surgery centers and hospital working with physicians, surgeons, podiatrists and dentists to provide safe anesthetic care for their patients.

Regarding the recently proposed language for Section 361 we respectfully request the following changes:

(c) The MUA procedure is performed at a facility that is licensed or certified by the California Department of Health Services and may be approved by one (1) of the following; JCAHO, AAAHC, AHA.

(d) The anesthetic, sedative or other drug is administered by a licensed medical or osteopathic physician, certified in anesthesiology through the American Board of Medical Specialists (ABMS); or a Certified Registered Nurse Anesthetist licensed and certified by the Board of Registered Nursing:

(e) The patient has been evaluated by a medical or osteopathic physician who is familiar with MUA and has been approved by that physician for the MUA and the administration of anesthesia, sedative or other drug; anesthesia administered by a certified registered nurse anesthetist for MUA must be ordered by a licensed medical or osteopathic physician.

The Board of Registered Nursing is the authority regarding nursing scope of practice and the practice of CRNAs in California. This was recently confirmed and signed into law (SB 358). Allowing CRNAs to perform anesthesia under the guidelines as revised would be consistent with current practice and would not restrict the utilization of CRNAs for this service.

President
Joseph Burkard, CRNA

President Elect
Jennifer Woolley, CRNA

Vice President
Fred Cardinal, CRNA

Three Year Director
Christopher Stein, CRNA

Trustees

James Carey, CRNA
Laurie Hanna, CRNA
William Jenkins, CANR
Caleb Rogovin, CRNA
Jane A. Scanlan, CRNA

Student Representative
Ryan Nation, SRNA

Association Manager
Sandra Even, CAE, CMP

Legal Counsel
Philip R. Recht

Mission Statement

CANA, the leader in promoting the practice and profession of nurse anesthesia in California

Thank you for your consideration in this matter. Should you require more information please contact our office. A representative from our Association will be present at the hearing in Sacramento.

Sincerely,

Christopher S. Stein CRNA, MS
CANA Board of Directors

cc: Ruth Ann Terry RN, MPH
Melissa Cortez

CANA, Inc.

California Association of Nurse Anesthetists, Inc.
224 West Maple Street, Orange CA 92866
Office 714/744-0155 • Fax 714/744-8975
www.canainc.org

03 NOV 20 PM 1:41

President
Joseph Burkard, CRNA

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Vice President
Fred Cardinal, CRNA

Three Year Director
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Philip R. Recht

Mission Statement

CANA, the leader in promoting the practice and profession of nurse anesthesia in California

November 11, 2003

Kim Smith,Executive Director
Board of Chiropractic Examiners
2525 Natomas Park, Suite 260
Sacramento, CA 95833-2931

Dear Ms. Smith,

On behalf of the California Association of Nurse Anesthetists (CANA), I want to thank you for providing our association the opportunity to comment on the proposed regulations regarding Manipulation Under Anesthesia (MUA). Since the October 23 rd meeting was the first opportunity for the association to address the Board, I am providing further clarification to my written and verbal testimony regarding MUA and specifically anesthesia requirements. My understanding is that this issue will be held over for further comment in the January meeting.

This was the first meeting to which any CANA member gave testimony verbal or written. In reviewing the minutes from June 2003, this item was not discussed at that time. Our organization first provided written testimony with our letter dated October 16, 2003.

CANA's proposed language is consistent with current CRNA practice and law, and allows patients and chiropractors access to quality service.

Certified Registered Nurse Anesthetists (CRNAs) provide anesthesia in all types of healthcare facilities and settings including; hospitals, ambulatory surgery centers and office based practices. CRNAs by California law require the order of a physician, podiatrist or dentist to deliver anesthesia. Once the order is received, the CRNA performs a preoperative examination, develops and implements the anesthetic plan, and manages the postoperative recovery of the patient. CRNAs working with chiropractors receive the order for anesthesia from a physician who is physically within the confines of the healthcare facility. Most often this is a physician familiar with the chiropractor and the patient who is to undergo the MUA. CRNAs legally perform anesthesia for patients of podiatrists and dentists who are also considered "non-physician" providers.

CRNAs have been delivering safe anesthesia care to patients since the introduction of anesthesia in the 1880's. In California, Alta Bates (of the Oakland Hospital) was one of our notable early pioneers in nurse anesthesia. Throughout history CRNAs have a distinguished record in providing care to underserved populations and those in the military. In fact, CRNAs are the primary anesthesia providers to the United States Military. Recently, when Jessica Lynch was rescued from Iraq, a CRNA was on the frontline in the field, providing immediate care prior to her hospitalization.

CRNAs work throughout California. They deliver anesthesia in large academic institutions (University of California), Kaiser Permenante Hospitals, public health care (LA County and Indian Health System), the military and VA systems, and to small hospitals in rural California. We perform anesthesia for all types of surgical procedures delivering regional and general anesthesia. Surgical specialties we work with include; neurosurgery, cardiovascular, thoracic,

general, obstetric, urology, opthamology, orthopedic, head and neck, podiatry, oral surgeons and dentists. Non-surgical specialists include; gastroenterologists, neurologists, cardiologists, radiologists, and pain management physicians.

All CRNAs who are licensed are board certified by the American Association of Nurse Anesthetists (AANA) through the Council on Certification. They are licensed as Registered Nurses and as Nurse Anesthetists. Educational requirements are the following; four year baccalaureate degree, RN licensure, one year minimum critical care experience, 27 month graduate education in nurse anesthesia in an accredited program culminating in a Masters Degree. These programs consist of didactic education in pharmacology, physiology, physics, chemistry and anesthesia science and research methodology. Our clinical residency is performed in academic centers, frequently in conjunction with physician anesthesiology training programs.

The Board of Registered Nursing is the sole authority, besides the legislature, on determining the scope of practice of CRNAs in California. This authority was recently confirmed and signed into law through SB358 (Liz Figuera, chair, of the Senate Business and Professions Committee) which amended the Health and Safety Code to read:

2725 (e) No state agency other than the board may define or interpret the practice of nursing for those licensed pursuant to the provisions of this chapter, or develop standardized procedures or protocols pursuant to this chapter, unless so authorized by this chapter, or specifically required under state or federal statute. "State agency" includes every state office, officer, department, division, bureau, board, authority and commission.

The BRN has published numerous letters of opinion regarding anesthesia performed by CRNAs. Not including CRNAs in the MUA language would restrict patient access to our services and would be inconsistent with regulation and law, and limit CRNA scope of practice without justified authority.

At the October 23rd hearing Dr. Reed Phillips from Southern California University of Health Sciences spoke in support of our proposed language. I can provide testimony from many chiropractors that work with CRNAs and can support CRNA inclusion in this regulation. If there are further questions regarding this issue, please contact me directly at astein1590@aol.com or 818-993-3428 during business hours.

Sincerely,

Christopher S. Stein

Christopher S. Stein CRNA, MS
CANA Three Year Director

Cc: Ronald G. Hayes, D.C. Chair
Cc: John Marder, Vice Chair
Cc: Stan R. Lewis Secretary
Cc: Barbara A. Stanfield, DC
Cc: David F. Yoshida, DC
Cc: Sheila Wells, DC

Lavella Matthews

From: Lavella Matthews
Sent: Wednesday, October 08, 2003 2:50 PM
To: 'patrickjwalter@msn.com'
Subject: RE: MUA Regulations

Per your request.

Lavella

-----Original Message-----
From: patrickjwalter@msn.com [mailto:patrickjwalter@msn.com]
Sent: Wednesday, October 08, 2003 2:48 PM
To: Lavella Matthews
Subject: MUA Regulations

Dear Ms. Matthews:

I was wondering if I could obtain a copy of the proposed regulations for MUA either emailed to me at: patrickjwalter@msn.com or, if this is not possible, to send a copy to my office at: 2245 Santa Clara Ave., Ste. 200
Alameda, CA 94501

Thank you,
Patrick J. Walter, D.C., M.S.
patrickjwalter@msn.com
(510) 865-6101

Lavella Matthews

From: Sharon Hagler, RN [shagler@ap.net]
Sent: Wednesday, October 22, 2003 9:30 PM
To: Lavella Matthews
Cc: Advisory
Subject: Proposed Change to Division 4 of Title 16 of the California Code of Regulations Section 361 Manipulation Under Anesthesia

October 22,2003

To: Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833-2931

From: Sharon J. Hagler R.N. CNOR RNFA
Operating Room Nursing Council of California Legislative Liaison

Subject: Proposed Changes to the Chiropractic Initiative

To Whom It May Concern:

The following is a response to the proposed changes to the Chiropractic Initiative Act, Section 361-Manipulation Under Anesthesia (MUA). As the Legislative Liaison for the Operating Room Nursing Council of California (ORNCC), I have been asked by our Chair, Linda Rhyne, to submit our response. We represent approximately 4,000 registered perioperative nurses in California.

The ORNCC recognizes that too much specificity within the body of a regulation impedes implementation. The ORNCC's primary concern regarding this proposal is the potential for patient safety issues and scope of practice issues for both the Registered Nurse and the Certified Registered Nurse Anesthetist when the regulation is implemented.

The ORNCC believes Manipulation Under Anesthesia needs to be performed in a surgical environment that contains all the necessary monitoring equipment and trained personnel. Further the environment must be capable of handling any procedural or anesthesia complication(s) that may arise.

The proposed regulation states MUA will be performed in a facility that is licensed or certified by the California Department of Health Services and approved by one of the following: JCAHO, AAAHC, or AHA. Regulations put forward from these entities will protect patient safety.

The proposed regulation states the anesthetic, sedative, or other drug will be administered by a licensed medical doctor or an osteopathic physician certified in anesthesiology through the American Board of Medical Specialists. This statement would exclude the Certified Registered Nurse Anesthetist from involvement with the MUA procedure.

Licensed chiropractors are credentialed to practice in health care facilities as Allied Health Professionals and the medical or osteopathic physician responsible for the history and physical would control patient care pre and post procedure. The licensed chiropractors do not have prescriptive privileges. The registered nurse may not take orders from a chiropractor. The registered nurse's scope of practice must be protected.

The ORNCC wishes to convey our position that a Manipulation Under Anesthesia performed by a licensed chiropractor must be under the supervision of a medical doctor or osteopath in a safe environment (i.e. acute care/ambulatory care and not office based facility). Osteopathic physicians and medical doctors may give orders regarding patient care to registered nurses.

Policies and procedures concerning MUA would be the responsibility of the facilities within which these procedures are performed. Policies and procedures are often authored by registered nurses with final approval

from the facilities Department of Surgery, Department of Anesthesia, and the Executive Board.

The ORNCC believes the implementation of these proposed regulations would impact patient safety and scope of practice issues with far reaching consequences.

Thank you for your time and consideration,

Sharon Hagler
707-526-5376
707-843-8430 cell
shagler@ap.net

Timothy J. Wolf, CRNA
220 West 21st Street
Upland, California 91784-1412
Cell 909-971-6414 or e-mail tjwolf@concentric.net

October 22, 2003

Board of Chiropractic Examiners
Lavella Matthews, Regulations Coordinator
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833-4306

Concerns proposed regulations to adopt section 361.

The proposed regulations address the qualifications of anesthesia providers. The Board of Chiropractic Examiners does not have the legal authority to define the qualifications of individuals who may administer anesthesia for manipulations under anesthesia by a chiropractor. The regulations as proposed do not permit the administration of anesthesia by a Certified Registered Nurse Anesthetist (CRNA). The Board of Registered Nursing is the agency with the legal authority to regulate the scope of practice of the CRNA. The Board has determined that a CRNA may administer anesthesia for manipulation by a chiropractor provided such anesthetic is ordered by a physician licensed as an medical doctor or a osteopathic physician and that physician is present.

Therefore, I have two suggestions concerning wording for the anesthesia provider.

(d) The anesthetic, sedative or other drug is administered by a licensed practitioner whose scope of practice permits.

If the Board of Chiropractic Examiners insists on more definitive wording then the following is suggested:

(d) The anesthetic, sedative or other drug is administered by a licensed medical or osteopathic physician, certified in anesthesiology through the American Board of Medical Specialists (ABMS); or a Certified Registered Nurse Anesthetist licensed and certified by the Board of Registered Nursing:

(e) The patient has been evaluated by a medical or osteopathic physician who is familiar with MUA and has been approved by that physician for the MUA and the administration of anesthesia, sedative or other drug; anesthesia administered by a certified registered nurse anesthetist for MUA must be ordered by a licensed medical or osteopathic physician.

Section (c) contains errors. The section refers to surgery centers but does not comply with California Health and Safety Code Section 1248.1. The American Hospital Association does not license or certify health care facilities. AHA is a private association of hospitals. Hospitals are license by the Department of Health and certified by either Medicare or JCAHO. Surgery centers must meet the requirements of Health and Safety Code Sections 1248 to Section 1248.85. The following wording is suggested:

(c) The MUA procedure is performed at a ~~facility~~ hospital that is licensed ~~or certified~~ by the California Department of Health Services and certified by Medicare or JCAHO or is performed in an Ambulatory Surgery Center which meets the requirements of Health and Safety Code Section 1248 to Section 1248.85. ~~may be approved by one (1) of the following; JCAHO, AAAHC, AHA.~~

Please consider my comments and suggestions.

Sincerely

Timothy J. Wolf, CRNA

Chiropractic Manipulation Under Anesthesia

Travelers Ins.

DRAFT - For Discussion and/or Informational Purposes Only

In connection with Workers' Compensation claims, many states may require that the Workers' Compensation Commission or similar regulatory body have exclusive jurisdiction on any decision as to whether a particular drug or course of medical treatment is either medically necessary or non-compensable on the basis that such drug or treatment is "experimental." The following discussion reflects Travelers' position with respect to the subject drug or treatment in those jurisdictions (if any) where the employer or insurance carrier is authorized to make that decision. For assistance in determining jurisdiction over medical necessity or compensability decisions for "experimental" drug and/or treatment in a particular state, please contact staff counsel or outside counsel.

Prepared by: Thomas Long, MD, Associate National Medical Director
May, 2003

Background

Pain can be beneficial if the pain warns of injury or impending injury to the body and thus helps reduce the injury. However, pain can sometimes interfere with medical treatment. Modern surgery would be impossible without anesthesia to temporarily eliminate pain.

Anesthesia poses risks to those receiving it. As in all of medicine, professionals should not perform or prescribe any treatment whose risks outweigh the benefits. Anesthesia for removal of a diseased appendix or gallbladder clearly represents a benefit far outweighing the risk.

Manipulation under anesthesia represents an accepted treatment for a frozen shoulder (adhesive capsulitis) and other similar joint conditions. The adhesions are abnormal. Freedom of joint movement requires that the adhesions be broken, but the act of breaking joint adhesions is painful. Here again, the benefits outweigh the risks.

Some chiropractors have begun to perform chiropractic manipulation while the patient is under general anesthesia. A patient under general anesthesia can neither feel pain nor respond to protect himself/herself. One of the benefits of being awake during chiropractic manipulation is that the patient can inform the chiropractor if the chiropractor causes pain. The possibility exists that chiropractic manipulation of an anesthetized patient could cause permanent damage. Therefore, the risks of chiropractic manipulation under anesthesia outweigh its benefits.

The medical literature contains no evidence that any chiropractic treatment must be painful to be effective. If chiropractic manipulative therapy need not be painful, then the need for anesthesia and its attendant risks does not exist. The risks of anesthesia outweigh its benefits in this case. When the risks of unnecessary anesthesia are added to the risks of manipulating an unconscious patient, the total risks so far outweigh any possible benefits that chiropractic manipulation under anesthesia can never be recommended.

Summary

The risks of chiropractic manipulation under general anesthesia far outweigh its benefit.

Manipulation under anesthesia (MUA) should be considered experimental. Travelers does not cover experimental treatments because of safety and efficacy issues.

Bibliography

A search of the medical literature failed to find one well-designed, well-controlled study in a reputable medical journal validating the use of chiropractic manipulation under anesthesia.

Confidential & Proprietary - For Internal Use Only - Travelers Indemnity Company and its Property Casualty Affiliates

Medical and pharmacy policy update

The Regence Group and its affiliated Plans use medical and pharmacy policies as guidelines for coverage decisions within the member's written benefits. Below are summaries of recent changes to The Regence Group's medical policies. The detailed policies and complete Medical Policy Manual are available online at www.regence.com/trgmedpol/. We have included the section and policy number for your convenience.

Medical policies

Photodynamic therapy for subfoveal choroidal neovascularization (Medicine #87) Presumed ocular histoplasmosis and occult choroidal neovascularization have been added to the policy as medically necessary indications.

Stereotactic radiosurgery and fractionated stereotactic radiotherapy (Surgery #16) The limitation for patients with more than three metastatic brain lesions has been removed.

Transpapillary thermotherapy for treatment of choroidal neovascularization (Surgery #120) New policy considers this technology investigational.

Preimplantation genetic diagnosis (Maternity #11) Although most contracts exclude coverage of assisted reproductive technology, some contracts do include this benefit. When assisted reproductive technology is a covered benefit, individual consideration of coverage of preimplantation genetic diagnosis will be given to couples who are known carriers of potentially lethal or disabling genetic mutations when the indicated criteria are met.

Intracoronary brachytherapy for prevention and management of restenosis after percutaneous transluminal coronary angioplasty (PTCA) (Medicine #76) May be considered medically necessary for treatment of in-stent restenosis of saphenous vein graft in addition to treatment of in-stent restenosis of a native coronary artery.

Spinal manipulation under anesthesia (Medicine #103) Spinal manipulation under anesthesia in the absence of vertebral fracture or dislocation is considered investigational.

Full-field digital mammography (Radiology #39) Full-field digital mammography is considered investigational, both as a screening and diagnostic technique.

Bladder tumor antigen (Laboratory #15) The initial evaluation of suspected bladder cancer has been added to the policy as a medically necessary indication.

Pharmacy policies

Imglucerase (Cerezyme)/Alglucerase (Ceredase) (#2) Policy updated to delete Ceredase from policy due to rare use. Remove finding Gaucher cells in bone marrow as a test for diagnosis of Gaucher disease. Add statement regarding the usefulness of MRI or plain films to monitor extent of replacement of marrow by Gaucher cells and for evidence of avascular necrosis.

Alpha-1 proteinase inhibitor (Prolastin) (#3) Statement added in criteria to define the presumed threshold ATT level that is necessary to protect against emphysema.

Zaleplon (Sonata) (#61) **Zolpidem (Ambien)** (#62) New policies: Amounts exceeding 14 tablets every month may be considered medically necessary when non-pharmacologic treatments used for insomnia have failed.

Granisetron (Kytril) (#68) **Dolasetron (Anzemet)** (#69) New policies: Considered medically necessary following chemotherapy and other severe persistent vomiting, no exception for use in hyperemesis gravidarum.

Butorphanol Nasal sprays (Stadol NS) (#10) New policy: Considered medically necessary in amounts exceeding 1 canister per month for migraine headaches with sufficient prophylaxis or for pain with documented NPO status.

Tretinoin topical (Retin A) (#11) New policy: When contract exclusions do not apply, considered medically necessary for non-cosmetic and precancerous conditions.

See Policies, next page

BlueCross BlueShield of Tennessee Medical Policy Manual

Spinal Manipulation Under Anesthesia

DESCRIPTION

Spinal manipulation performed either with an individual sedate or under anesthesia (i.e., manipulation under anesthesia; MUA) is intended to overcome the conscious protective reflex mechanism, which may have limited the success of prior attempts of spinal manipulation of the conscious individual. In MUA, a low velocity/high amplitude technique may be used in contrast to the high velocity/low amplitude technique that is used in the typical chiropractic/osteopathic adjustment. A single session of MUA may be offered, followed by a series of outpatient chiropractic/osteopathic sessions, or a series of up to 5 sessions of MUA may be offered, also followed by outpatient chiropractic/osteopathic sessions. In some instances the MUA may be accompanied by corticosteroid injections.

POLICY

Spinal manipulation under anesthesia is considered *investigational.*

ADDITIONAL INFORMATION

- Spinal manipulation under anesthesia does not meet the following Technology Evaluation Center (TEC) criteria:
  - The scientific evidence must permit conclusions concerning the effect of the technology on health outcomes.
  - The technology must improve the net health outcome.
  - The technology must be as beneficial as any established alternatives.
  - The improvement must be attainable outside of the investigational settings.

- As with any treatment of pain, controlled clinical trials are considered particularly important to isolate the contribution of the intervention and to assess the extent of the expected placebo effect. A search of the published medical literature did not identify any controlled clinical trials. Several case series were identified, which included individuals with cervical, thoracic and lumbar back pain, treated according to varying protocols. In the largest case series, West and colleagues reported on 177 individuals with back pain and who had failed prior therapy. The individuals were treated with 3 sequential manipulations under intravenous sedation, followed by 4-6 weeks of further chiropractic spinal manipulation. At 6 month follow up there was a 60% improvement in VAS scores. However, this uncontrolled study cannot isolate the contribution of the manipulation under anesthesia compared to either the placebo effect, the effect of continued chiropractic therapy, or the natural history of the condition. Other small case series focused on the use of manipulation in conjunction with corticosteroid injections. Similarly, this literature does not permit scientific interpretation.

SOURCES

Aspegren DD, Wright RE, Hemler DE. "Manipulation under epidural anesthesia with corticosteroid injection: two case reports." Journal of Manipulative and Physiological Therapeutics. November/December 1997;20(9):618-21.

Ben-David R, Raboy M. "Manipulation under anesthesia combined with epidural steroid injection." Journal of Manipulative and Physiological Therapeutics. November/December 1994;17(9):605-9.

BlueCross BlueShield Association, Draft policy titled "Manipulation under anesthesia." January 2002.

Gordon RC. "An evaluation of the experimental and investigational status and clinical validity of manipulation of patients under anesthesia: a contemporary opinion." Journal of Manipulative and Physiological Therapeutics. November/December 2001;24 (9):603-11.

Haldeman: Guidelines for Chiropractic Quality Assurance and Practice Parameters: Proceedings of the Mercy Center Consensus Conference, Copyright © 1993 Aspen Publishers, Inc. p. 112.

Herzog J. "Use of cervical spine manipulation under anesthesia for management of cervical disk herniation, cervical radiculopathy, and associated cervicogenic headache syndrome." Journal of Manipulative and Physiological Therapeutics. March/April 1999;22(3):166-70.

Hughes BL. "Management of cervical disk syndrome utilizing manipulation under anesthesia." Journal of Manipulative and Physiological Therapeutics. March/April 1993;16(3):174-84.

Michaelsen MR. "Manipulation under joint anesthesia/analgesia: a proposed interdisciplinary treatment approach for recalcitrant spinal axis pain of synovial joint origin." Journal of Manipulative and Physiological Therapeutics. February 2000;23(2):127-9.

West DT, Mathews RS, Miller MR, Kent GM. "Effective management of spinal pain in one hundred seventy-seven patients evaluated for manipulation under anesthesia." Journal of Manipulative and Physiological Therapeutics. June 1999;22(5):299-308.

EFFECTIVE DATE 8/1/2002

Policies included in the Medical Policy Manual are not intended to certify coverage availability. They are medical determinations about a particular technology, service, drug, etc. While a policy or technology may be medically necessary, it could be excluded in a member's benefit plan. Please check with the appropriate claims department to determine if the service in question is a covered service under a particular benefit plan. Use of the Medical Policy Manual is not intended to replace independent medical judgment for treatment of individuals. The content on this Web site is not intended to be a substitute for professional medical advice in any way. Always seek the advice of your physician or other qualified health care provider if you have questions regarding a medical condition or treatment.

Coverage Policy Bulletins

Number: 0204
Subject: Spinal Manipulation Under Anesthesia

Important Note

Even though the policy described below may conclude that a particular service or supply is considered covered, this conclusion is not based upon the terms of your particular benefit plan. Each benefit plan contains its own specific provisions for coverage and exclusions. Not all benefits that are determined to be medically necessary will be covered benefits under the terms of your benefit plan. You need to consult the terms of your own benefit plan to determine if there are any exclusions or other benefit limitations applicable to this service or supply. If there is a discrepancy between this policy and your plan of benefits, the provisions of your benefits plan will govern. However, applicable state mandates will take precedence with respect to fully insured plans and self-funded non-ERISA (e.g., government, school boards, church) plans. Unless otherwise specifically excluded, Federal mandates will apply to all plans. With respect to Medicare and Medicaid members, this policy will apply unless Medicare and Medicaid policies extend coverage beyond this Coverage Policy Bulletin. Medicare and Medicaid policies will only apply to benefits paid for under Medicare or Medicaid rules, and not to any other health benefit plan benefits. CMS's Coverage Issues Manual can be found on the following website: http://cms.hhs.gov/manuals/pub06pdf/pub06pdf.asp

Policy

Aetna does not cover spinal manipulation under anesthesia. This procedure has not been established as either safe or effective for the treatment of musculoskeletal disorders such as neck and back problems. Critical issues such as patient selection criteria, outcome assessments, and long-term benefits need to be addressed by well-designed studies before this procedure can be considered as an essential part of conservative therapy. In this regard, the Guidelines for Chiropractic Quality Assurance and Practice Parameters published from the proceedings of a consensus conference commissioned by the Congress of Chiropractic State Associations declared that chiropractic involvement in manipulation under anesthesia is a new area of special interest that needs further investigation.

Background

Spinal manipulation under anesthesia (SMUA) has been used mostly by osteopaths and to a much lesser degree by orthopedists to treat spinal dysfunction. This procedure was typically performed in one single

session.More recently, some chiropractors, with the assistance of anesthesiologists, have also employed this technique to alleviate acute and chronic neck and back pain.

The rationale for this approach is that fibrotic changes in the periarticular and intraarticular soft tissues hinder movement, and sometimes it is necessary to anesthetize patients to reduce muscle tone and protective reflex mechanisms so that the spine can be manipulated effectively.This maneuver supposedly will break up adhesions within the surrounding spinal joints and stretch the restricting fibrotic tissue to a length compatible with motion, thereby, increasing joint function and reducing pain.

Within the realm of chiropractic, SMUA is generally performed daily for 1 to 5 consecutive days on an outpatient basis, and is followed by a post-SMUA rehabilitation regimen, which entails one week of daily manipulation to maintain joint mobility and avoid re-adhesion of fibrotic tissue.Anesthesia is usually induced by intravenous Pentothal (sodium thiopental), and manipulation of the affected joints takes about 7 to 10 minutes.

Although the risks associated with spinal manipulation and SMUA appear remote, serious complications following lumbar spinal manipulation, including massive cauda equina compression and vertebral pedicle fracture have been reported.For manipulation of the cervical spine, there is an increased chance of basivertebral and/or vertebral artery injury.Additionally, general anesthesia a small but clinically significant risk of anaphylaxis or malignant hyperpyrexia.

A recent assessment on SMUA (Kohlbeck and Haldeman, 2002) concluded that medicine assisted spinal manipulation therapies have a relatively long history of clinical use and have been reported in the literature for over 70 years. However, evidence for the effectiveness of these protocols remains largely anecdotal, based on case series mimicking many other surgical and conservative approaches for the treatment of chronic pain syndromes of musculoskeletal origin. There is, however, sufficient theoretical basis and positive results from case series to warrant further controlled trials on these techniques.

Place of Service:
N/A (since this is not a covered procedure).

The above policy is based on the following references:

1. Guidelines for Chiropractic Quality Assurance and Practice Parameters: Proceedings of the Mercy Center Consensus Conference, Burlingame, CA, January 25 - 30, 1992, S Haldeman et al (eds.), Gaithersburg, MD: Aspen Publishers, Inc. 1993.
2. Dreyfuss P, et al. MUJA: Manipulation under joint anesthesia/analgesia: A treatment approach for recalcitrant low back pain of synovial joint origin. J Manipulative Physiol Ther. 1995;18:537-546.
3. Davis CG. Chronic cervical spine pain treated with manipulation under anesthesia. J Neuromusculoskeletal Syst. 1996;4:102-115.
4. Francis R. Spinal manipulation under general anesthesia: A

chiropractic approach in a hospital setting. J Am Chiro Assoc. 1989;:39-41.
5. Alexander GK. Manipulation under anesthesia of lumbar post-laminectomy syndrome patients with epidural fibrosis and recurrent HNP. J Am Chiro Assoc. 1993;:79-81.
6. Dan NG, Saccasan PA. Serious complications of lumbar spinal manipulation. Med J Aust. 1983;2(12):672-673.
7. Hughes BL. Management of cervical disk syndrome utilizing manipulation under anesthesia. J Manipulative Physiol Ther. 1993;16:174-181.
8. Aspegren DD, et al. Manipulation under epidural anesthesia with corticosteroid injection: Two case reports. J Manipulative Physiol Ther. 1997;20(9):618-621.
9. Kohlbeck FJ, Haldeman S. Technical assessment: Medication assisted spinal manipulation. Spine J. 2002;2(4). http://www.spine.org/TSJ_excerp_vol2_iss4.cfm (accessed September 10, 2002).

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October 08, 2002

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1. Call to Order JANUARY 15, 2004 BOARD MINUTES

Dr. Hayes called the meeting to order at 9:41 a.m.

Dr. Hayes introduced Dr. R. Michael Hamby, D.C., who was appointed to the Board by Governor Davis on November 4, 2003.

2. Roll Call

Mr. Lewis called the roll. Mr. Marder was absent, and arrived at the meeting at 10:47 a.m.

DR. HAMBY MOVED TO ADDRESS THE CLOSED SESSION AGENDA ITEMS PRIOR TO OPEN SESSION. DR. WELLS SECONDED THE MOTION. DRS. WELLS AND HAMBY AND MR. LEWIS VOTED TO APPROVE THE MOTION. DRS. HAYES, YOSHIDA AND STANFIELD OPPOSED THE MOTION. THE MOTION WAS NOT APPROVED.

Mr. Lewis suggested that the closed session agenda be addressed upon the arrival of Mr. Marder.

DR. WELLS MOVED TO ADDRESS THE CLOSED SESSION AGENDA UPON THE ARRIVAL OF MR. MARDER. DR. HAMBY SECONDED THE MOTION. DRS. WELLS, HAMBY AND STANFIELD AND MR. LEWIS VOTED TO APPROVE THE MOTION. DRS. HAYES AND YOSHIDA OPPOSED THE MOTION. THE MOTION WAS APPROVED.

3. Approval of Minutes

- October 23, 2003, Open Session

Following a brief discussion regarding the regulation public hearing minutes, Dr. Hayes asked for a motion to approve the open session minutes.

DR. STANFIELD MOVED TO ADOPT THE OCTOBER 23, 2003, OPEN SESSION MINUTES. DR. HAMBY SECONDED THE MOTION. THE MOTION WAS APPROVED.

- October 23, 2003, Closed Session

Dr. Hayes asked for a motion to approve the closed session minutes.

DR. WELLS MOVED TO ADOPT THE OCTOBER 23, 2003, CLOSED SESSION MINUTES. DR. HAMBY SECONDED THE MOTION. THE MOTION WAS APPROVED.

- November 19, 2003, Open Session

Dr. Hayes asked for a motion to approve the minutes.

DR. WELLS MOVED TO ADOPT THE NOVEMBER 19, 2003, OPEN SESSION MINUTES. DR. HAMBY SECONDED THE MOTION. THE MOTION WAS APPROVED.

4. Chair's Report

Dr. Hayes provided a report on Board activities over the last year. He indicated that the Continuing Education Committee had gained some ground on continuing education issues dealing with practice enhancement and practice management. Dr. Hayes pointed out that the Board has worked diligently on the Manipulation Under Anesthesia (MUA) issue. He reported that the Regulation Committee had been working with public and private companies to address the issue of gross over utilization. Dr. Hayes stressed that, thanks to staff, the Board has managed to maintain an effective enforcement program. He also pointed out that all Board vacancies have been filled.

Dr. Hayes stated that the last year has been spent catching up on tasks and that the Board is now in a position to tackle issues through committee work, such as establishing specific criteria for continuing education in order to streamline the process. Dr. Hayes stressed that the Board has operated well in the last year, and expects the next year to be as successful with the contributions of the new Board members. He urged all members to work together

so that the Board will continue to excel in its accomplishments.

Dr. Stanfield provided a report on her research into the CCE's accreditation process and provided a copy of the report for the record. She reported that CCE does not have a position on MUA and has established an ad hoc committee to research the issue.

5. Executive Director's Report

Ms. Smith reported that the Board received an exemption to hire an Office Assistant to assist with the receptionist duties, and introduced and welcomed Kristine Okino. She also reported that a freeze exemption request for the Management Services Technician in the Enforcement Unit is pending at the Department of Finance (DOF).

Ms. Smith reported that all contracts have been frozen and must be approved by DOF. She stated that staff had submitted a blanket freeze exemption request for contracts, in-state and out-of-state travel, and equipment, which had been approved by DOF on January 14, 2004. Ms. Smith noted that this exemption will allow the Board to contract with its investigators, computer service vendors, and, most importantly, the testing contractor selected to administrator the computerized exam.

Ms. Smith referred the Board to the DOF memorandum ordering a freeze on all regulatory activity. She explained the process the Board had followed in the past to submit regulatory changes to the Office of Administrative Law (OAL), and stated that currently no regulation submissions could be made to OAL without review and approval by the DOF.

Ms. Smith reported that the Board had 2,620 hits on its website in December 2003. She pointed out that there had been 16,500 hits from July 1, 2003 through December 31, 2003.

Ms. Smith explained that a mandatory Board orientation is scheduled for February 26, 2004, and encouraged all new members to attend.

Following a brief discussion regarding the Board's administrative operations options, Dr. Hayes requested a motion to address the Public Comment agenda item as the next order of business in order to commence the Closed Session agenda upon Mr. Marder's arrival.

DR. STANFIELD MOVED TO ADDRESS THE PUBLIC COMMENT AGENDA ITEM AS THE NEXT ORDER OF BUSINESS. DR. YOSHIDA SECONDED THE MOTION. THE MOTION WAS APPROVED.

6. Public Comment

Fred Lerner, D.C., indicated he had appeared before the Board in the past regarding the MUA issue, and that the Industrial Medical Council (IMC) had adopted the subcommittee's report on MUA findings. He expressed his concern with the regulation scheduled for discussion by the Board. Dr. Lerner pointed out that although there may be utilization problem with MUA, there didn't seem to be a safety problem. He urged the Board to reconsider the regulation before them today. Following the presentation of a brief history of his involvement in MUA, Ms. Smith informed the Board that Dr. Lerner and Larry Tain, D.C. had appeared before the Board to discuss the originally proposed MUA regulation. She indicated that Drs. Lerner and Tain were to provide the Board with information the Board requested in order to develop a regulation that would benefit the profession and the public. Ms. Smith pointed out that no information from either gentleman or the IMC had been forthcoming. Dr. Lerner expressed his concern that Dr. Tain had not provided the Board with the report they had developed in July 2003, and assured the Board that he would forward the information. Dr. Hayes stated that further discussion regarding MUA would be addressed during the Regulation Committee Report.

Richard R. Skala, D.C., read a formal statement regarding the duties of the Board and his concern with the proposed MUA regulation.

Joseph Ambrose, D.C., expressed his concerns with the proposed MUA regulation. Dr. Hayes stressed that the proposed regulation is on the agenda for discussion purposes only, and explained the rulemaking process. He reiterated that the MUA issue would be discussed during the Regulation Committee agenda item.

10. **Enforcement/Regulation Review Committee**

A. Discussion and Action re Regulation Proposals

- Section 325.1 – License Reapplication

Mr. Marder explained that currently applicants whose license applications are denied may reapply for licensure within one year from the date of denial. The proposed regulation extends the reapplication period from one year to two years. Ms. Smith explained that a public hearing was held in April 2003, approving the original proposed regulation to proceed to the Office of Administrative Law. She noted that a letter received during the public comment period pointed out that the regulation unfairly targeted applicants choosing to exercise their rights through the administrative process. After a review of the public concern, staff agreed that the regulation should be broadened to include all applicants, as the most current language sets forth.

A brief discussion ensued regarding denial timelines.

DR. HAMBY MOVED TO APPROVE THE PROPOSED AMENDMENT TO SECTION 325.1. DR. WELLS SECONDED THE MOTION. THE MOTION WAS APPROVED.

- Section 361 - MUA

Mr. Marder referred to Exhibit H and explained the proposed amendment would prohibit licensed chiropractors from performing manipulation under anesthesia (MUA).

DR. WELLS MOVED TO NOT PROCEED WITH THE PROPOSED REGULATION AND REFER IT BACK TO COMMITTEE. DR. HAMBY SECONDED THE MOTION. A DISCUSSION WAS REQUESTED.

Mr. Marder explained that the Regulation Committee's recommendation is not necessarily to outlaw MUA, but until the procedure is proven to be safe and effective, it should not be allowed. He stressed that although manipulation is clearly in the scope of practice, the administration of anesthesia or puncturing skin is not. The concern the Committee has is with the procedures required to perform MUA that are not spelled out in the scope of practice. Mr. Marder referred to a technical report on MUA, which stated that advanced clinical research is lacking in this procedure. He indicated that the minimal clinical studies conducted regarding adverse reaction to anesthesia administered for this procedure is reason for further research as to the medical necessity of the procedure. Mr. Marder stressed that he didn't think anyone would dispute there is a risk to introducing anesthesia, and that the Board must obtain sufficient clinical information justifying that the benefits derived from the procedure outweighs the risk.

Dr. Hayes stated that the Committee did not feel that it had enough information to make a decision regarding MUA that is in the best interest of the public. He stated that possibly the entire Board should act as the committee to research, review and make the final determination regarding whether MUA is of benefit to the public considering the risks involved. He recommended that the Board hold a public meeting specifically to address MUA and the direction the Board should follow.

Following a discussion regarding the benefits of MUA as a rehabilitative tool, the appropriate procedure to follow in adopting or nonadopting the proposed regulation, and comments from Drs. Wells, Hamby and Stanfield regarding their opposition to the proposed language before the Board, Dr. Wells withdrew her motion and Dr. Hayes asked for a motion to move forward to a public meeting dealing exclusively with the MUA issue.

MR. MARDER MOVED TO TABLE BOARD ACTION ON SECTION 361 IN ORDER TO COLLECT SUFFICIENT INFORMATION TO DEVELOP AN APPROPRIATE REGULATION, AND HOLD AN OPEN BOARD MEETING TO ADDRESS THE MUA ISSUE AND MOVE FORWARD WITH A REGULATION. MR. LEWIS SECONDED THE MOTION. THE MOTION WAS APPROVED.

11. **Licensing Program Report**

A. License Statistics

Ms. Berumen referred the Board to Exhibit I, the most recent license statistics.

Dr. Hayes requested a report on license statistics covering a five-year period at the next meeting.

EXHIBIT H
PROPOSED LANGUAGE
SECTION 361 - MUA

361. Manipulation Under Anesthesia (MUA).

A licensed Doctor of Chiropractic (licensee) may not perform manipulation under anesthesia (MUA). Licensees failing to comply with this provision will be subject to disciplinary action.

NOTE: Authority cited: Section 1000-4 (b), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii).

Reference: Section 1000-4 (e), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii).

STATE OF CALIFORNIA
ARNOLD SCHWARZENEGGER, Governor

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EXHIBIT 6

BOARD OF CHIROPRACTIC EXAMINERS

PUBLIC SESSION MINUTES

Thursday, March 18, 2004

10:00 a.m. to 2:00 p.m.

2525 Natomas Park Drive, Suite 100-A
Sacramento, CA 95833

BOARD MEMBERS PRESENT

Ronald G. Hayes, D.C., L.Ac. Chair
Michael Hamby, D.C., Vice Chair
David Yoshida, D.C.
Sheila Wells, D.C.
John Marder, Esq.
Stan Lewis

BOARD MEMBERS ABSENT

Barbara Stanfield, D.C., Secretary

STAFF PRESENT

Kim Smith, Executive Director
Catherine Hayes, Enforcement Program Manager
M. Maggie Craw, D.C., DACBR, Board Consultant
Jana Tuton, Deputy Attorney General
Lavella Matthews, Regulations/Board Relations Coordinator

GUESTS PRESENT

George Austin, D.C., Texas Chiropractic College
Kendra Holloway, Life Chiropractic College West
George Casey, Life Chiropractic College West
Kristine Schultz, California Chiropractic Association
Fred Cardinal, Calif. Assn. Of Nurse Anesthetists
Melissa Cortez, Calif. Assn. Of Nurse Anesthetists
Ed Cremata, D.C.
Rick Skala, D.C.
Fred Lerner, D.C.
Ed Roberts, D.C.
Dean Falltrick, D.C.

1. Call to Order

Dr. Hayes called the meeting to order at 10:05 a.m.

2. Roll Call

Dr. Hamby called the roll. All members were present with the exception of Drs. Stanfield and Wells. Dr. Wells arrived at the meeting at 10:15 a.m.

3. Discussion and Action re: Manipulation Under Anesthesia Regulation

Dr. Hayes announced that the Board was meeting to take public input on the issue of Manipulation Under Anesthesia (MUA). Mr. Marder added that the Board is seeking as much information as possible regarding MUA so that it may adopt a regulation that is in the best interest of the chiropractic consumer. Ms. Smith stated that the Board had requested at the last Board meeting any clinical studies or trials that had been conducted in the area of MUA, and that the Board had been provided with all the information that had been submitted to date. She pointed out that additional material had been delivered directly to the Board members just prior to the commencement of the meeting, and asked that the presenter be identified. Dr. Rick Skala, D.C., announced that he had prepared and delivered the material on behalf of himself.

Dr. Fred Lerner, D.C., addressed the Board on the issue of MUA. He stated that he has been licensed in California since 1980, has a full time practice at the Cedar Sinai Medical Center, provides various continuing education courses, and has been certified in MUA for a few years, performing the procedure fairly regularly. Dr. Lerner indicated that he participated on an unofficial subcommittee of the Industrial Medical Council (IMC) to review MUA and has recently provided the findings to the Board. Discussion ensued regarding IMC representative Larry Tain's, D.C., past efforts to urge the Board to adopt a regulation so that IMC could pattern its guidelines to follow state law. Dr. Lerner clarified that guidelines were never officially adopted by IMC. He indicated that although the guidelines are not official, the document is up-to-date and a very good companion to the available research they were able to gather. He stated that the document is also in concert with the National Academy of MUA (National Academy) guidelines, which have been in effect approximately 30 years, and in practice in every state that he is aware of, including California.

Ms. Smith pointed out that Dr. Tain, representing IMC, had approached the Board in April 24, 2003 to develop a regulation pertaining to MUA so that IMC guidelines could be developed based upon that regulation. She indicated that he had failed to provide promised and necessary information for the Board to proceed with a regulation, and instead developed proposed guidelines (Tain guidelines) that were never adopted by any entity. Ms. Smith stated that it seems quite ironic that individuals involved in the creation of the unofficial Tain guidelines are now requesting the Board to embrace and adopt a document in which the Board was provided no input.

Dr. Lerner explained the role MUA has at Cedar Sinai Medical Center and his involvement in the hospital setting. He stated that most MUA procedures are being performed in surgical centers rather than hospitals. He stressed that MUA has always been a part of the chiropractic scope of practice and the Board ratified that fact at a past Board meeting. Ms. Smith clarified that manipulation is within the scope of practice, but the issue the Board is addressing is the use of anesthesia to perform manipulations because of the risk/benefit concern.

Dr. Lerner discussed the history of Cedar Sinai Medical Center's involvement in MUA and the Medical Center's decision that the procedure was no better or worse than anything else the hospital does. He stated that the Medical Center paid an independent medical group to perform a risk/benefit analysis on MUA. The independent group came to the same conclusion as the Medical Center – that there was not enough literature available to compile a risk/benefit analysis.

Mr. Marder asked Dr. Lerner if there were any procedures that a chiropractor or medical doctor would perform that should not be done under anesthesia, such as applying an ace bandage to a knee. Dr. Lerner acknowledged that procedure would not be done under anesthesia because of the anesthesia risk. Mr. Marder pointed out that is exactly why the Board is concerned with MUA; is the risk necessary in order to perform a manipulation, is there some benefit that outweighs the risk of anesthesia? He stressed that the Board should not take the position that unless there is information to indicate a procedure is dangerous, the Board should allow it. Rather the Board should first study the risks involved and make a decision based upon that knowledge. Dr. Lerner stated he disagreed with Mr. Marder's conclusion because a standard would have to be defined in order to cease a

procedure that has been in practice for many years. Ms. Smith again clarified that the Board was not considering amending Section 302 (Scope of Practice) to disallow manipulation, and pointed out that there is no reference in Section 302 to the use of anesthesia when performing manipulations.

Dr. Lerner reiterated that MUA has been in practice for decades and that it exists today; chiropractors do not administer the anesthesia, but perform the manipulations while the patients are under anesthesia. Mr. Marder stated that it is not the length of time a procedure has been in place and not regulated that will persuade the Board the procedure is safe. He stated the Board should regulate the procedure and if it is not safe chiropractors should not be allowed to perform manipulations under anesthesia. Mr. Marder stressed that it is not good public safety to default to a procedure until its proved dangerous. He indicated he would look to a peer review study in a national journal that reveals that the benefit outweighs the risk. Mr. Marder stated that when the totality of the evidence is presented to the Board and the Board believes it is persuasive, a decision based upon actual scientific evidence can be made that is in the best interest to the health, safety and welfare of the chiropractic consumer.

Dr. Lerner indicated the Board would be required to define was is safe and what is not safe. The Board's consultant, Dr. Craw, stated that the Board is considering the risk/benefit decision. She indicated that manipulation alone has a minimal risk and yet chiropractors are clearly permitted to do it. Dr. Craw stated everyone would agree that MUA carries some risk; it may be minimal, but if there is no benefit to the procedure, then why put the patient to that minimal risk. She stressed the Board has to consider the efficacy as well as the safety of the procedure.

Dr. Lerner stated that the National Chiropractic Malpractice Insurance Company (NCMIC) requires the 32-hour course certification to obtain a policy rider at no additional premium cost. Mr. Marder asked if NCMIC had done any studies to determine the risk factor was not high enough to require a cost for the policy rider. Mr. Lerner was not aware of any such study. Ms. Smith clarified that NCMIC is an insurance company developed by chiropractors for chiropractors, and Dr. Lerner substantiated that fact. Mr. Marder commented that the Board must not make decisions regarding the safety of the public based on business decisions made by insurance companies.

Dr. Wells inquired as to the number of studies currently be conducted regarding MUA. Dr. Lerner indicated that besides his research through Cedars Sinai Medical Center, he was not aware of any studies being conducted. Dr. Lerner explained the process that the Medical Center followed in order to allow MUA and cervical manipulation procedures to take place at the hospital. He added that process led to the Medical Center asking him to prepare an institutional review board study on MUA and conscious manipulations, which will take approximately one year to complete.

A brief discussion ensued regarding the lack of studies regarding risk/benefit of chiropractic and, in particular, the area of MUA, and the risk of anesthesia in general. Dr. Craw asked Dr. Lerner if he was aware of any studies regarding the efficacy of MUA, comparing the effects MUA to standard manipulative therapy. Dr. Lerner indicated he knew of no such study and stated there were several studies he would like to see done. He added that he was not aware of any incident reports regarding MUA procedures. A comment was made that there are incident reports available on anesthesia problems; i.e., from food aspiration, but not from the manipulation. A brief discussion ensued on the type of anesthesia used during MUA procedures.

The types of manipulations and frequencies were discussed. Dr. Hamby inquired as to the determining factors used for cervical MUA procedures, to which Dr. Lerner referred to the Algorithms portion of the protocols and standards submitted by the National Academy.

Dr. George Austin, D.C., an instructor of MUA for Texas Chiropractic College (TCC), explained that TCC uses the Tain guidelines as their study guide. He briefly outlined the MUA reimbursement fees TCC sets forth in MUA teachings. Dr. Austin stated that TCC submitted its MUA instructional manual to NCMIC, who, in turn, informed TCC the MUA course was insurable.

Dr. Wells relayed her concern about flyers she had been receiving advertising TCC seminars that stress the monetary benefit of MUA rather than the efficacy of the procedure. She pointed out that although she would not like to see MUA prohibited, the Board's concern is the misuse of the procedure and the subjection of California citizens to possibly unnecessary procedures. Dr. Cremata and Dr. Austin explained that TCC was aware of such flyers in the past, and put a stop to the distribution.

Dr. Lerner indicated that over use and over utilization are the biggest problems in the chiropractic profession, and briefly discussed the anti-chiropractic legislation that resulted from these problems. He stated that in his opinion only a small percentage of MUA practitioners participate in over use or over utilization. Dr. Lerner stated that MUA has been a very effective procedure and that the only thing missing is the data to prove its effectiveness. Dr. Wells continued to stress her concern with the safety aspects of MUA, and inquired about a prolonged period of MAU

proctoring. Dr. Austin explained the procedures used by TCC in MUA training.

Dr. Ed Cremata, D.C., explained his role in assisting with the development of the Tain guidelines. Mr. Marder noted that 30 years ago an MUA rider was quite expensive and inquired why there is no cost for a rider today. Dr. Cremata referred to correspondence from NCMIC regarding the very few claims the insurance company had seen or dealt with since the early 1990's. Dr. Cremata set forth his opinion as to the reasons to use anesthesia. He also explained his experience as a MUA proctor, and explained the role of a proctor.

Dr. Cremata pointed out that the Medical Board follows the Tain guidelines. Deputy Attorney General Jana Tuton clarified that possibly Medical Board investigators are using the document as a tool to conduct investigations, but that the Medical Board and/or its staff has in no way adopted or acknowledged the Tain guidelines.

Dr. Cremata provided an in-depth discussion regarding the benefits of using anesthesia when manipulating in order to increase the range of motion. He stressed that patient selection is important; that the procedure should be used only when all other alternatives have been exhausted. Dr. Cremata also stated that reputable MUA practitioners lose money on the procedure.

Dr. Craw stated that the MUA discussion has focused on the risk/benefit issues, but very little discussion has been held regarding the efficacy of the procedure. She pointed out that the Kohlbeck/Haldeman "Spine Journal" article referenced only two randomized controlled trials, both of which were medication assisted anesthesia consisting of lidocaine and joint injection of steroids followed by manipulation. Dr. Craw pointed out that the conclusions in "Spine Journal" article were that MUA was promising, but more randomized controlled trails were necessary.

Mr. Marder reinforced his concerns with the risk/benefit use of anesthesia. Dr. Cremata reiterated that the chiropractors do not administer anesthesia, and that the only time a patient will be chosen for sedation in order to perform an adjustment is when all other in-office procedures have failed. Dr. Wells inquired as to the type of anesthesia used in MUA. Dr. Cremata indicated that the type of sedation used in MUA procedures allows patients to breathe on their own, and described the various types of sedations that may be used. Dr. Wells inquired about local anesthetics rather than sedations. Dr. Cremata explained local anesthetics do not stop the reflexes, and deeper corrections can be made when using other types of sedations.

A discussion ensued regarding the protocols for determining the frequency of MUA procedures. Drs. Cremata and Lerner referred to the "Single vs. Serial Application" section of the Tain guidelines and the "MUA Pathway" portion of the National Academy document.

Dr. Craw pointed out that the National Academy recommends that anesthesia be provided under the direct supervision of a board-certified anesthesiologist and inquired what "direct supervision" means. Dr. Lerner stated that "direct supervision" means being administered by the anesthesiologist. Dr. Craw indicated that the early drafts of the Board's regulation specified that required anesthesia to be administered by a board-certified anesthesiologist, and that representatives of the California Association of Nurse Anesthetists (CANA) have approached the Board to be included as providers of anesthesia in the Board's law. Dr. Lerner indicated that the procedure should be performed in the safest way possible. He commented that the hospitals and surgery centers he utilizes do not use nurse anesthetists, only board-certified anesthesiologists.

Melissa Cortez, representing CANA, commented that the association had submitted proposed regulatory language to the Board that would include California registered nurse anesthetists (CRNA) if licensed medical or osteopathic physicians order the anesthetic, which is consistent with the way they work with non-physician providers, such as dentists and podiatrists. She pointed out that the anesthesia portion of MUA procedures is regulated under the scope of practice of the providers currently authorized to administer anesthesia. Ms. Cortez stated that excluding CRNAs from MUA procedures would be restricting their scope of practice.

Dr. Cremata stated that the surgery center he is associated with insists that only board-certified anesthesiologists participate in MUA procedures because they require medical or osteopathic physicians present to handle medical situations that may arise. He added that MUA training materials state that MUA procedures must be performed with a medical doctor or osteopathic physician in the procedure room.

Fred Cardinal, a practicing CRNA, stated that with all other surgical providers and any other procedures that require sedation, certified nurses provide equal services to those of anesthesiologists. He pointed out that outcome studies have shown that CRNAs are just as safe as anesthesiologists. Dr. Craw pointed out that the issue has never been the skill set of the nurse anesthetists, but rather the limitations of the chiropractic scope of practice that allow chiropractors to deal with emergency medical situations. Mr. Cardinal briefly explained the working relationships between CRNAs, board-certified anesthesiologists, and medical and osteopathic physicians.

He explained the anesthetic procedures CRNAs currently perform for podiatrists and stated that they were the same that would be required for MUA procedures.

Dr. Cremata referenced a Wyoming appeals court decision indicating MUA is not considered an experimental procedure. Ms. Tuton clarified that the Wyoming case is not relevant to the California issue. Mr. Marder explained that these types of cases occur when contract disputes arise between insurance companies and patients, and that the courts are interpreting the terms of contracts, not rendering decisions on risk/benefit issues.

Dr. Craw asked if procedures are in place to decertify problematic MUA practitioners. Dr. Cremata stated there are no decertification procedures, but inappropriate activities can be addressed during the recertification process. He indicated that if protocols were not being following, recertification would not take place. Dr. Craw pointed out that it appeared that the hospitals and surgery centers are policing problematic MUA practitioners, not the certifying entities.

Following a discussion regarding guidelines pertaining to single and serial MUA applications, Ms. Smith explained that the Board does not have authority to determine treatment objectives, that the treatment decisions must be made by practitioners on behalf of their patients. Ms. Tuton reiterated that the Office of Administrative Law would most likely reject any attempt to regulate patient selection criteria or treatment objectives. Dr. Wells asked if a regulation could specify training requirements. Ms. Smith explained that it might be wise for the Board to specify a minimum number of training hours, but to avoid too much specificity.

A brief discussion took place regarding the procedures followed by the Board when considering discipline because of excessive care, negligence, incompetence, insurance fraud, and/or a violation of a specific regulation or statute. Dr. Falltrick explained the informed consent to body part procedures followed at his affiliated hospital. Dr. Craw asked if the training colleges have ever refused to recertify a problematic MUA practitioner. Dr. Austin stated that recertification is a new process and there is no history of recertification refusal.

Dr. Cremata reported on various insurance carriers that refuse to reimburse for MUA procedures. Dr. Skala referred the Board to various Worker's Compensation cases and out-of-state legal cases in the materials provided by him.

Dr. Hamby inquired about the institution called "The Academy of Bloodless Medicine and Surgery". Dr. Austin explained that the name is associated with his company. Dr. Hayes pointed out that California chiropractors couldn't use the term surgery in advertising. Ms. Tuton confirmed that fact and stated that the acronym "ABMS" is typically understood to be "American Board of Medical Specialties". Dr. Austin stated that he would change the name to "Texas Chiropractic College".

Ms. Tuton asked for the legal authority pertaining to MUA being performed in surgery centers or hospitals with board-certified anesthesiologists. Dr. Cremata stated that the drug used for MUA procedures calls for these requirements. Ms. Tuton explained that since there are no legal requirements that MUA be performed in hospitals or surgery centers, the Board may want to consider a regulation that specifies the types of facilities MUA procedures may take place.

Dr. Hamby referred to Richard Arco's, D.C., letter of concerns regarding MUA. Dr. Cremata indicated that Dr. Arco does file reviews for State Fund, which has a blanket policy against MUA. He stated that Dr. Arco's comments have no substance, just his opinions.

Dr. Wells asked if the American Hospital Association (AHA) accredits surgery centers. Dr. Cremata reported that AHA accredits hospitals, and that there are only three institutions that accredit surgery centers; the Accreditation Association for Ambulatory Health Care (AAAHC), Medicare, and the Department of Health Services.

Mr. Marder expressed his concern that the Tain document used a statement made at the April 24, 2003, Board meeting the Board's lack of jurisdiction over MUA as the legal authority for the promulgation of the proposed guidelines. He also pointed out that the "Spine Journal" article specifically stated that there is noting but anecdotal evidence regarding MUA, and that further studies are needed.

Mr. Marder reiterated his concerns over the risk/benefit of using anesthesia. Dr. Cremata stated that the anesthesiologist is charged with determining if there is a risk in the use of anesthesia in MUA procedures. Ms. Tuton stated that typically an anesthesiologist would assess that the patient is not suitable for anesthesia because of some other condition, not whether the patient needs the MUA procedure. Dr. Cremata stated that in his practice the need for MUA procedures is a co-decision between the chiropractor and the anesthesiologist as to the type of sedation to be used.

Ms. Tuton stated that Dr. Cremata had been reciting policies and practices taking place at the facility where he performs MUA. She stressed that the Board must be concerned about what happens generally, and not focus on the procedures required and/or followed by Dr. Cremata's particular location.

Mr. Marder inquired about the cure rate associated with MUA procedures. Dr. Cremata indicated the term "cure rate" is not used, but rather the terms "very satisfied", "satisfied", "dissatisfied", etc. He stated their survey indicated 70% of their patients were very satisfied, which is defined as decreasing pain levels, possible return to work, increased functional capacities, and depression levels go down. He indicated that epidural patients surveyed at 30% very satisfied. Mr. Marder pointed out that MUA patients would most likely have different conditions than epidural patients, and questioned the science behind the statistics.

California Chiropractic Association (CCA) representative Kristine Schultz thanked the Board for holding the special meeting to discuss MUA. She stated that CCA supports allowing chiropractors to continuing performing MUA procedures. Ms. Schultz stated that CCA would like a Board regulation that sets forth patient selection criteria, training requirements that are limited to chiropractic colleges, advertising standards, medical necessity standards, and specified locations where MUA procedures can be performed.

Dr. Craw reiterated her concern that currently MUA certifying entities have no mechanisms to decertify MUA providers who do not follow training standards. A discussion ensued regarding developing provider decertification procedures.

Dr. Falltrick commented on the benefits brought to profession from the co-mingling of chiropractors and medical doctors in the performance of MUA procedures. He asked the Board to consider that public safety is better served by encouraging that co-mingling.

4 Adjourn

Dr. Hayes adjourned the meeting at 1:40 p.m.

_____ _____

RONALD G. HAYES, D.C., Chair DATE

_____ _____

BARBARA STANFIELD, D.C., Secretary DATE

GERALD J. JANDA, DC, QME

Maggie Craw, DC
California Board of Chiropractic Examiners
2525 Natomas Park Dr., #260
Sacramento, CA 95833-2931

10 March 2004

RE: **March 18, 2004 MUA Meeting**

Dear Dr. Craw:

Thank you for the invitation to the upcoming State Board meeting of 3/18/04 regarding the issue of manipulation under anesthesia (MUA) and its place within the chiropractic profession. Unfortunately, I will be unable to attend but I would like to comment and provide my opinion on this issue.

In my experience as a qualified medical examiner and in nearly a decade of utilization and peer review, I have come across a certain percentage of cases which have involved the questionability of MUA being administered by chiropractors. In each of these cases, I found the practitioners of MUA to be highly suspect for reasons summarized below.

First, the typical perception is that the fees charged for MUA are grossly excessive compared with other, more involved procedures such as epidural injections or some surgeries – amounting to $4,000 per session to be paid to the actual chiropractor performing the manipulation in addition to another $400-600 fee being paid to the "attendant" chiropractor (in workers' compensation cases it is often the primary treater) who supposedly must be present at each session. Often, the typical MUA case requires the patient to undergo a range of three to six sessions which, of course, can amount up to $27,000 or more just for the chiropractic services and NOT including anesthesiology costs.

Secondly, it is my clinical opinion that MUA might be beneficial for an extremely low percentage of patients that have failed to respond to the more accepted measures of injury management. Although I have no data to support this figure, I believe less than 1% of the lower back injury patient population would be appropriate candidates for MUA. Based upon that belief, I would certainly state that the majority of MUA procedures being performed by chiropractors are unwarranted.

If MUA is to be monitored within the chiropractic scope of practice, I recommend that strict measures be implemented with respect to the fees charged and the inclusion/exclusion criteria applied to determine candidate appropriateness. Please do not hesitate to contact me personally should you have further questions. Thank you for your time.

Respectfully,

Gerald J. Janda, DC, QME

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State of California Department of Consumer Affairs

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BOARD OF CHIROPRACTIC EXAMINERS
04 MAR 24 AM 11:31

Ruth Ann Terry, MPH, RN
Executive Officer

March 22, 2004

Kim Smith
Executive Director
Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931

Dear Ms. Smith:

The purpose of this letter is to inform the California Board of Chiropractic Examiners that the 2003 California Legislature amended the Business and Professions Code granting the Board of Registered Nursing the exclusive authority to define or interpret the practice of nursing. The amendment was contained in SB 358. The wording is as follows:

> *"2725(e) No state agency other than the board may define or interpret the practice of nursing for those licensed pursuant to the provisions of this chapter, or develop standardized procedures or protocols pursuant to this chapter, unless so authorized by this chapter, or specifically required under state or federal statute. "State agency" includes every state office, officer, department, division, bureau, board, authority, and commission."*

The Board of Registered Nursing (BRN) has been informed that the Board of Chiropractic Examiners has proposed regulations concerning manipulations under anesthesia (MUA) which in part list the qualifications of practitioners who may administer anesthesia for these manipulations. The regulations as proposed permit physicians licensed as a medical or osteopathic physician who is certified in anesthesiology as the only anesthesia providers.

If certain requirements are met, a Certified Registered Nurse Anesthetist (CRNA) may administer anesthesia for manipulations performed by a Doctor of Chiropractic. A CRNA may administer anesthesia upon the order of a physician, dentist, podiatrist or clinical psychologist. The Nurse Practice Act does not define a Doctor of Chiropractic as one of the practitioners who may provide orders to individuals licensed by the Nurse Practice Act. The scope of practice of a dentist, podiatrist or clinical psychologist does not appear to permit the medical management of a patient receiving manipulation by a Doctor of Chiropractic. Therefore, a physician licensed as a medical or osteopathic physician must order the anesthetic. A physician must be available to provide medical management of the patient during the administration of the anesthetic.

The authority of California Boards to issue regulations require that the regulation not contain provisions which conflict with any section of the California Code. Since the proposed MUA regulations do not contain wording including nurse anesthetists as one of the providers of anesthesia the regulations violate the Board of Chiropractic Examiners authority to issue

regulations and creates a conflict with the intent of Business and Professions Code, section 2725(e).

The BRN requests that the Board of Chiropractic Examiners include Certified Registered Nurse Anesthetists as one of the permitted anesthesia providers in the MUA regulations.

Sincerely,

Ruth Ann Terry MPH, RN

Ruth Ann Terry, MPH, RN
Executive Officer

GOVERNMENTAL
ADVOCATES, INC.
Legislative Advocacy/Governmental Affairs

BOARD OF
CHIROPRACTIC EXAMINERS
04 MAY 21 PM 12:14

May 12, 2004

Ronald G. Hayes, D.C.
Chair, Board of Chiropractic Examiners
2525 Park Drive, Suite 260
Sacramento, CA 95833-2931

Dear Dr. Hayes:

On behalf of the California Association of Nurse Anesthetists (CANA) we are writing to oppose the draft regulations for manipulation under anesthesia (MUA) unless they are amended to include Certified Registered Nurse Anesthetists (CRNAs) as anesthesia providers.

In the 2003 legislative session, the Legislature passed Senate Bill 358 (Figueroa), granting the Board of Registered Nursing (BRN) exclusive authority, with certain exception, to regulate the practice of nursing. This legislation, which was signed into law, prohibits other state agencies, state offices, departments, divisions, and *boards* from interpreting the practice of nursing. CANA respects the authority of the Board of Chiropractic Examiners (BCE) to regulate the manipulation performed by a Chiropractor; however by excluding one particular anesthesia provider the BCE has restricted the scope of practice of another practitioner.

The BRN has submitted a letter to the BCE stating that the proposed regulation creates a conflict with the intent of Business and Professions Code Section 2725 (e) and has requested that CRNAs be included in the proposed regulations. CANA has submitted language to the BCE which would allow a CRNA to administer an anesthetic for MUA if the anesthetic is ordered by a licensed medical or osteopathic physician, as permitted under current law. Current law allows for a CRNA to practice with dentists, clinical psychologists, and doctors of podiatric medicine. There is no evidence demonstrating that this practice has been unsafe or diminishes patient care in any way.

At the most recent hearing on this issue there appeared to be confusion regarding unnecessary duplication of provider services. Although a physician must be available to provide medical management, there is no requirement in current law for the physician to be physically present in the room during the administration of the anesthetic. The "availability" of the physician would simply require the physician to be present in the facility. This is consistent with the practice of hospitals and ambulatory surgery centers across the state.

1127 - 11th Street, Suite 400 • Sacramento, CA 95814
(916) 448-8240 • FAX: (916) 448-0816

Finally, there was some apprehension within the chiropractic community regarding the inclusion of CRNAs. Although we are requesting the inclusion of CRNAs, this should not be interpreted as a mandate to utilize CRNAs. The Nurse Anesthetists Act provides for the utilization of a CRNA to be at the discretion of the physician or other provider, and the facility administrator.

We have enclosed the referenced letter from the BRN, SB 358, and the previous letter from CANA that includes recommended language. We have also enclosed additional materials on CRNAs training and practice. We are available to answer any questions regarding CANA and its position on MUA regulation at (916) 448-8240. Should you have specific questions on the practice of CRNAs we encourage you to contact the Board of Registered Nursing.

Sincerely,

Melissa Cortez

Andrew Govenar

Cc: Ruth Ann Terry, Executive Director
Board of Registered Nursing
P.O. Box 944210
Sacramento, CA 95814

Christopher Stein, CRNA, MS
California Association of Nurse Anesthetists
224 West Maple Street
Orange, CA 92866

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Ruth Ann Terry, MPH, RN
Executive Officer

March 22, 2004

Kim Smith
Executive Director
Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931

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The authority of California Boards to issue regulations require that the regulation not contain provisions which conflict with any section of the California Code. Since the proposed MUA regulations do not contain wording including nurse anesthetists as one of the providers of anesthesia the regulations violate the Board of Chiropractic Examiners authority to issue

November 11, 2003

Executive Director
Board of Chiropractic Examiners

Dear Ms. Smith,

On behalf of the California Association of Nurse Anesthetists (CANA), I want to thank you for providing our association the opportunity to comment on the proposed regulations regarding Manipulation Under Anesthesia (MUA). Since the October 23 rd meeting was the first opportunity for the association to address the Board, I am providing further clarification to my written and verbal testimony regarding MUA and specifically anesthesia requirements. My understanding is that this issue will be held over for further comment in the January meeting.

This was the first meeting to which any CANA member gave testimony verbal or written. In reviewing the minutes from June 2003, this item was not discussed at that time. Our organization first provided written testimony with our letter dated October 16, 2003.

CANAs proposed language is consistent with current CRNA practice and law, and allows patients and chiropractors access to quality service.

Certified Registered Nurse Anesthetists (CRNAs) provide anesthesia in all types of healthcare facilities and settings including; hospitals, ambulatory surgery centers and office based practices. CRNAs by California law require the order of a physician, podiatrist or dentist to deliver anesthesia. Once the order is received, the CRNA performs a preoperative examination, develops and implements the anesthetic plan, and manages the postoperative recovery of the patient. CRNAs working with chiropractors receive the order for anesthesia from a physician who is physically within the confines of the healthcare facility. Most often this is a physician familiar with the chiropractor and the patient who is to undergo the MUA. CRNAs legally perform anesthesia for patients of podiatrists and dentists who are also considered "non-physician" providers.

CRNAs have been delivering safe anesthesia care to patients since the introduction of anesthesia in the 1880's. In California, Alta Bates (of the Oakland Hospital) was one of our notable early pioneers in nurse anesthesia. Throughout history CRNAs have a distinguished record in providing care to underserved populations and those in the military. In fact, CRNAs are the primary anesthesia providers to the United States Military. Recently, when Jessica Lynch was rescued from Iraq, a CRNA was on the frontline in the field, providing immediate care prior to her hospitalization.

CRNAs work throughout California. They deliver anesthesia in large academic institutions (University of California), Kaiser Permenante Hospitals, public health care (LA County and Indian Health System), the military and VA systems, and to small hospitals in rural California. We perform anesthesia for all types of surgical procedures delivering regional and general anesthesia. Surgical specialties we work with include;

neurosurgery, cardiovascular, thoracic, general, obstetric, urology, opthamology, orthopedic, head and neck, podiatry, oral surgeons and dentists. Non-surgical specialists include; gastroenterologists, neurologists, cardiologists, radiologists, and pain management physicians.

All CRNAs who are licensed are board certified by the American Association of Nurse Anesthetists (AANA) through the Council on Certification. They are licensed as Registered Nurses and as Nurse Anesthetists. Educational requirements are the following; four year baccalaureate degree, RN licensure, one year minimum critical care experience, 27 month graduate education in nurse anesthesia in an accredited program culminating in a Masters Degree. These programs consist of didactic education in pharmacology, physiology, physics, chemistry and anesthesia science and research methodology. Our clinical residency is performed in academic centers, frequently in conjunction with physician anesthesiology training programs.

The Board of Registered Nursing is the sole authority, besides the legislature, on determining the scope of practice of CRNAs in California. This authority was recently confirmed and signed into law through SB358 (Liz Figuera, chair, of the Senate Business and Professions Committee) which amended the Health and Safety Code to read:

2725 (e) No state agency other than the board may define or interpret the practice of nursing for those licensed pursuant to the provisions of this chapter, or develop standardized procedures or protocols pursuant to this chapter, unless so authorized by this chapter, or specifically required under state or federal statute. "State agency" includes every state office, officer, department, division, bureau, board, authority and commission.

The BRN has published numerous letters of opinion regarding anesthesia performed by CRNAs. Not including CRNAs in the MUA language would restrict patient access to our services and would be inconsistent with regulation and law, and limit CRNA scope of practice without justified authority.

At the October 23rd hearing Dr. Reed Phillips from Southern California University of Health Sciences spoke in support of our proposed language. I can provide testimony from many chiropractors that work with CRNAs and can support CRNA inclusion in this regulation. If there are further questions regarding this issue, please contact me directly at or 818-993-3428 during business hours.

Sincerely,

Christopher S. Stein CRNA, MS
CANA Three Year Director

Performed by a Board of Chiropractic Examiners
Lavella Matthews, Regulations Coordinator
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833-4306

I am writing on behalf of the California Association of Nurse Anesthetists whose membership consists of more than 1000 practicing Certified Registered Nurse Anesthetists (CRNAs) located throughout California. CRNAs work in rural and urban settings, offices, surgery centers and hospital settings working with physicians, surgeons, podiatrists and dentists to provide safe anesthetic care for their patients.

Regarding the recently proposed language for Section 361 we respectfully request the following changes:

(c) The MUA procedure is performed at a facility that is licensed or certified by the California Department of Health Services and may be approved by one (1) of the following; JCAHO, AAAHC, AHA.

(d) The anesthetic, sedative or other drug is administered by a licensed medical or osteopathic physician, certified in anesthesiology through the American Board of Medical Specialists (ABMS); or a Certified Registered Nurse Anesthetist licensed and certified by the Board of Registered Nursing:

(e) The patient has been evaluated by a medical or osteopathic physician who is familiar with MUA and has been approved by that physician for the MUA and the administration of anesthesia, sedative or other drug; anesthesia administered by a certified registered nurse anesthetist for MUA must be ordered by a licensed medical or osteopathic physician.

The Board of Registered Nursing is the authority regarding nursing scope of practice and the practice of CRNAs in California. This was recently confirmed and signed into law (SB 358). Allowing CRNAs to perform anesthesia under the guidelines as revised would be consistent with current practice and would not restrict the utilization of CRNAs for this service.

Thank you for your consideration in this matter, should you require more information please contact our office. A representative from our Association will be present at the hearing in Sacramento.

Sincerely,

Christopher S. Stein CRNA, MS

CANA, Inc.

California Association of Nurse Anesthetists, Inc.
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Office 714/744-0155 • Fax 714/744-8975
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President
Evan Koch, CRNA

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Vice President
Jennifer Woolley, CRNA

Three Year Director
Christopher Stein, CRNA

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Fred Cardinal, CRNA
Shelley Gierat, CRNA
Laurie Hanna, CRNA
Caleb Rogovin, CRNA
Jane A. Scanlan, CRNA

Student Representative
Erica Zima, SRNA

Association Manager
Sandra Even, CAE, CMP

Legal Counsel
Philip R. Recht

Mission Statement

CANA, the leader in promoting the practice and profession of nurse anesthesia in California

Nurse Anesthetists at a Glance

Nurse anesthetists have been providing anesthesia care in the United States for over 100 years. Approximately 95% of this country's nurse anesthetists are members of the American Association of Nurse Anesthetists (AANA).

Certified Registered Nurse Anesthetists (CRNAs) are anesthesia specialists who administer approximately 65% of the 26 million anesthetics given to patients each year in the United States.

CRNAs are the sole anesthesia providers in nearly 50% of all hospitals and more than 65% of rural hospitals in the United States, affording these medical facilities obstetrical, surgical, and trauma stabilization capabilities.

CRNAs provide anesthetics to patients in collaboration with surgeons, anesthesiologists, dentists, podiatrists and other qualified healthcare professionals. When anesthesia is administered by a nurse anesthetist, it is recognized as the practice of nursing; when administered by an anesthesiologist, it is recognized as the practice of medicine.

As advanced practice nurses, CRNAs practice with a high degree of autonomy and professional respect. They carry a heavy load of responsibility and are compensated accordingly; the average annual income for a CRNA in 1997 was approximately $88,000 based on the AANA Membership Survey.

CRNAs practice in every setting in which anesthesia is delivered: traditional hospital surgical suites and obstetrical delivery rooms; the offices of dentists, podiatrists, ophthalmologists, and plastic surgeons; ambulatory surgical centers; and U.S. Military, Public Health Services and Veterans Administration medical facilities.

Managed care plans recognize CRNAs for providing high-quality anesthesia care with reduced expense to patients and insurance companies. The cost-efficiency of CRNAs helps keep the escalating medical costs down.

Legislation passed by Congress in 1986 made nurse anesthetists the first nursing specialty to be accorded direct reimbursement rights under the Medicare program.

California nurse anesthetists enjoy an independent scope of practice as a result of legislative and regulatory gains made by CANA, and are an integral part of the answer to California's health care crisis.

A total of 42% of the nation's 27,000 CRNAs are men, versus approximately 5 percent in the nursing profession as a whole.

Education and experience required to become a CRNA includes:

- A Bachelor of Science in Nursing (BSN) or other appropriate baccalaureate degree.
- Hold a current license as a registered nurse.
- At least one year's experience in an acute care nursing setting.
- Graduate from an accredited school of nurse anesthesia educational program ranging from 24-36 months, depending upon university requirements. These programs offer a graduate degree and include clinical training in university-based or large community hospitals.
- Pass a national certification examination following graduation, and complete a continuing education and re-certification program every two years thereafter.

Anesthesia Q&A

Q: Is anesthesia safe?

A: Statistics show that anesthesia today is safer and more effective than ever before. New monitoring technologies and drugs, increased education, and more extensive professional standards have made the administration of anesthesia one of the safest aspects of a surgical or obstetrical procedure.

Q: Who administers anesthesia?

A: In the majority of cases, anesthesia is administered by a Certified Registered Nurse Anesthetist (CRNA). CRNAs work with your surgeon, dentist or podiatrist, and may work with an anesthesiologist. CRNAs are advanced practice nurses with specialized graduate-level education in anesthesiology. For more than 100 years, nurse anesthetists have been administering anesthesia in all types of surgical cases, using all anesthetic techniques and practicing in every setting in which anesthesia is administered.

Q: Will a nurse anesthetist stay with me throughout my surgery?

A: The nurse anesthetist stays with you for the entire procedure, constantly monitoring every important function of your body and individually modifying your anesthetic to ensure your maximum safety and comfort.

Q: Are there different types of anesthesia?

A: There are three basic types of anesthesia: *General anesthesia* produces a loss of sensation throughout the entire body; r*egional anesthesia* produces a loss of sensation to a specific region of the body; and *local anesthesia* produces a loss of sensation to a small, specific area of the body.

Q: What determines which type of anesthesia is best for me?

A: The anesthesia chosen for you is based on factors such as your physical condition, the nature of the surgery and your reactions to medications.

Q: Do different types of patients require different types of anesthesia?

A: Many factors go into determining the best anesthetic and administration technique for each person. Pregnant patients, children, older adults and patients with hereditary disorders such as diabetes or sickle cell anemia all require special consideration. Even lifestyle choices such as tobacco and alcohol use can influence the anesthesia selection process.

Q: Why haven't I heard about CRNAs? Are you a new profession?

A: Nurse anesthesia was established in the late 1800s as the first clinical nursing specialty in response to the growing need surgeons had for anesthetists. Nurse anesthetists, pioneers in anesthesia, have been administering anesthesia for more than 100 years and have played significant roles in developing the practice.

Q: What is the difference between a CRNA and anesthesiologist?

A: The most substantial difference between CRNAs and anesthesiologists is that prior to anesthesia education, anesthesiologists receive medical education while CRNAs receive nursing education. However, the anesthesia part of the education is very similar for both providers. They are both educated to use the same anesthesia process in the provision of anesthesia and related services, and both adhere to the same standards of patient care.

Q: Tell me what to expect when I go for my anesthesia?

A: During the procedure, anesthesia allows you to be free of pain. All anesthesia care is provided with the highest degree of professionalism, including constant monitoring of every important body function. In addition to the nurse anesthetist's role in the procedure itself, they also make many preparations for the patient before surgery. So it is important that the patient take an active role in these preparations by communicating and cooperating with their nurse anesthetist and surgeon. For example, frank and open discussion with the nurse anesthetist is key in the selection of the best anesthetic. In particular, the patient must speak freely and follow instructions closely regarding the intake of medications, food, or beverages before anesthesia. Such substances can react negatively with anesthetic drugs and chemicals.

Q: What educational qualifications must all CRNAs have?

A: As advanced practice nurses, CRNAs receive their specialty anesthesia education in more than 80 accredited graduate programs offering a master's degree. Admission requirements include a BSN or other appropriate baccalaureate degree, RN license, and a minimum of one year of acute care nursing experience. The anesthesia curriculum covers advanced anatomy, physiology, and pathophysiology; biochemistry and physics related to anesthesia; advanced pharmacology; and principles of anesthesia practice, plus hours of hands-on experience in a wide variety of cases and techniques. Upon graduation from an accredited program of nurse anesthesia education, the individual must successfully pass a national certification exam to hold the CRNA credential. Thereafter, the CRNA is committed to lifelong learning, with one requirement being 40 CE hours every two years for recertification.

From the commencement of the professional education in nursing, a minimum of seven years of education and training is involved in the preparation of a CRNA. The bottom line is you don't have to be a physician to administer anesthesia.

Q: Where can consumers get more information about anesthesia?

A: Consumers are encouraged to call the American Association of Nurse Anesthetists at (847) 692-7050, or visit the AANA Web sites at www.aana.com and www.AnesthesiaPatientSafety.com.

C. Other current issues

Dr. Hayes reported that the Committee is developing CE guidelines and that Dr. Hamby would be attending the PACE presentation at the FCLB meeting in May 2004 in order to incorporate, if applicable, specific PACE guidelines for Board use. He indicated the proposed CE guidelines would be presented to the Board at the July 2004 meeting.

Dr. Hayes indicated that the CE Committee is considering a proposal to increase CE renewal requirements to 20 hours. Dr. Yoshida added that, considering the new CPR and x-ray requirements, it seems an increase in CE requirements is not unreasonable. Dr. Stanfield and Mr. Marder expressed their support of an increase in CE requirements. Dr. Hayes announced that the Regulation Committee would develop a proposed regulation for consideration at the July 2004 Board meeting.

9. Regulation Review Committee

A. Discussion and Action re Regulation Proposals

- Section 361 – Manipulation Under Anesthesia (MUA)

Mr. Marder referred to two draft proposed regulations dealing with MUA, which the Committee was submitting as a result of the March 18, 2004, Board meeting. He summarized the proposed language contained in the version allowing chiropractors to conduct MUA procedures, and referenced the version prohibiting MUA procedures.

A discussion ensued regarding allowing certified nurse anesthesiologists to administer anesthesia to MUA patients and the use of specialty designations. Mr. Marder pointed out that public input on MUA taken at the March 18, 2004, meeting leaned towards allowing only certified anesthesiologists to participate in MUA procedures. Following a discussion regarding the Board's overall view of MUA, the use of nurse anesthesiologists, and facility licensure and certification, Dr. Hayes asked for a motion to approve the proposed regulation, as amended, allowing chiropractors to perform MUA procedures.

DR. STANFIELD MOVED TO ADOPT THE PROPOSED SECTION 361, AS MODIFIED, AND TO PROCEED TO PUBLIC HEARING. DR. HAMBY SECONDED THE MOTION. THE MOTION WAS APPROVED.

B. Other Current Issues

Mr. Marder reported that he and Dr. Hayes held one informal meeting with various groups regarding the problem of over utilization, including Department of Insurance representatives, law enforcement representatives, insurance company investigators, and a representative from a district attorney's office. Dr. Hayes indicated that the meeting was intended to gage the need for a regulation to deal with over utilization. Mr. Marder stated that the Committee would like to gather as much information as possible before deciding if a regulation is necessary.

10. Licensing Program Report

A. License Statistics

Ms. Berumen referred the Board to Exhibit H, the most recent license statistics.

B. California Law Examination (CLE)

Ms. Berumen referred the Board to Exhibit I, a compilation of CLE scores over the last five-years. She also referred the Board to the results of the Board's newly revised Chiropractic Law and Professional Practice Exam (LPPE). Ms. Berumen reported that additional questions will be added to the question pool and that development would begin over the next few months.

C. Discussion/Action on Chiropractic College Board Approval Applications

Ms. Berumen referred to the Chiropractic College Board Approval Applications for Academic Years July 1, 2004-June 30, 2007, submitted for Board approval. Ms. Smith explained the approval process and the reasons for requesting the most current CCE site visit reports.

Ms. Smith explained the problems the Board has had with Palmer Chiropractic College West and Canadian Memorial Chiropractic College with matriculating individuals not possessing CCE-mandated prechiropractic requirements. She pointed out the amount of money the Board has expended on several challenges made by students failing to meet the CCE standards.

Ms. Smith indicated that staff recommends Board approval of all applying chiropractic colleges, with notice to Canadian Memorial and Palmer West that matriculation of students not meeting CCE standards may result in the revocation of their approval status.

Following a discussion regarding CCE standards and the matriculation problems the Board has experienced, Dr. Hayes requested a motion to approve the Applications for Approval of Chiropractic Colleges for Academic Years July 1, 2004 – June 30, 2007.

DR. WELLS MOVED TO APPROVE THE APPLICATIONS FOR APPROVAL OF CHIROPRACTIC COLLEGES FOR ACADEMIC YEARS JULY 1, 2004 – JUNE 30, 2007, WITH A REQUEST FOR UPDATED CCE SITE REPORTS FROM APPLICABLE INSTITUTIONS AND A LETTER OF WARNING TO CANADIAN MEMORIAL CHIROPRACTIC COLLEGE AND PALMER CHIROPRACTIC COLLEGE WEST THAT FAILURE TO FOLLOW CCE STANDARDS MAY RESULT IN APPROVAL REVOCATION. DR. STANFIELD SECONDED THE MOTION. THE MOTION WAS APPROVED.

Dr. Craw pointed out that Sections 331.3 and 331.6 require Board-approved chiropractic colleges to file specific documents with the Board on an annual basis. She indicated that these filings do not take place on a consistent basis and asked that the requirements be set forth in the approval letters.

11. Enforcement Program Report

Ms. Hayes introduced Deputy Attorney General Paul Bishop, who was assigned to the Board's meeting in Ms. Jana Tuton's absence.

A. Report on Discipline & Enforcement Activities

Ms. Hayes referred Board members to Exhibit K, a one-year listing of Board decisions for calendar year 2003, and explained the information contained therein.

B. Other Current Issues

Ms. Hayes reported that she and Dr. Craw attended the Automobile Insurance Fraud Committee meeting conducted by the Department of Insurance. She explained the Committee's purpose, the Board's role, and the information shared during the meeting.

Ms. Hayes reported that the Insurance Committee consultant had missed the Omnibus Bill timelines for including the Board's proposed amendments to Insurance Code Sections 1872.83, 1874.1, and 1877.1 – authority to obtain treatment records without having to seek releases or serve investigative subpoenas. She indicated that the consultant would endeavor to have our language included in another piece of legislation.

12. Public Comment

Dean Falltrick, D.C., commented that the 12-hour report writing course provided by the DWC allows the use of the acronym "QME".

Melissa Cortez, representing the California Association of Nurse Anesthetists (CANA), commented that SB 358 (Figueroa-2003) mandates that only the Board of Registered Nursing has the authority to regulate the scope of practice of registered nurses. She stated that in light of the proposed MUA regulation, CANA continues to have the position that the Chiropractic Board is infringing upon the scope of practice of registered nurses by banning the use of certified nurse anesthesiologists in MUA procedures.

Rick Skala, D.C., commented that if the Board involves itself in over utilization issues, it would become a pawn of the insurance companies. He stated that true over utilization problems are currently dealt with in the civil and criminal system and urged the Board not to enter this arena through regulation. Dr. Skala also indicated that the chiropractic colleges should take a more active role in dealing with this problem during the education process.

Dr. Hamby further reported that the Board will no longer use the term "core" or "core technique" as a process in determining approval or non-approval of courses. He also stated that the Board is considering utilizing the adjustive technique definition endorsed by CCE.

Dr. Hamby announced that, inadvertently, Morter BEST received approval for CE hours, and the CE Committee was going to withdraw that approval at this time. Dr. Hamby requested from Life West: (1) a syllabus in its entirety; and (2) a course packet, including instructors, etc. who will participate in the Morter BEST procedures within 15 days for Board review.

Regulation Committee

Dr. Hayes referred to Exhibit L, Memorandum on Proposed Regulations. Ms. Hayes announced that instead of introducing proposed language to sections 356 – Course Content, 306.1 - Quality Review Panel and 361 – Manipulation Under Anesthesia as noted on the agenda, a memorandum has been provided discussing the status of pending regulations and the goals set forth to further enhance the rulemaking process.

Dr. Hayes elaborated on the ongoing problems with the proposed language to Section 361 – Manipulation Under Anesthesia (MUA) and stressed the importance of the Board reaching a consensus on approval or disapproval on the proposed language. Following a discussion on whether chiropractors should or should not be allowed to perform MUA, the Board agreed that chiropractors should be allowed to perform MUA.

Ms. Hayes reminded the Board that although a consensus has been reached on the proposed language, the problem still arises by not including nurse anesthetists in the proposed language to administer anesthesia during the MUA procedure. Following a brief discussion on inclusion or non-inclusion of nurse anesthetists into the proposed language, Dr. Hayes referred to section "c" of the proposed language which states that the MUA procedure must be performed at a hospital that is licensed by the California Department of Health Services and certified by either Medicare or the Joint Commission on Accreditation of Healthcare Organizations. He indicated that based on the proposed language in section "c" the accredited hospital should make the determination as to who administers the anesthesia during the MUA procedure. Therefore, the Board agreed to remove section "d" of the proposed language which states, *"(d) The anesthetic, sedative or other drug is administered by a licensed medical or osteopathic physician, certified in anesthesiology through the American Board of Medical Specialists (ABMS)".* Dr. Hayes asked for a motion.

DR. HAMBY MOVED TO AMEND SECTION 361 BY REMOVING SECTION "D" OF THE PROPOSED LANGUAGE. DR. STANFIELD SECONDED THE MOTION. THE MOTION WAS APPROVED.

Dr. Hayes recessed into break at 12:30 p.m. and reconvened into open session at 12:52 p.m.

REGULAR FILE COPY

E OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW

OTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

EXHIBIT 9

STD. 400 (REV. '4-99)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-04-0823-03B	05-0826-03S	

For use by Office of Administrative Law (OAL) only

RECEIVED FOR FILING	PUBLICATION DATE	
AUG 23 2004	SEP 03 2004	2004 AUG 23 PM 5:04 OFFICE OF ADMINISTRATIVE LAW
Office of Administrative Law		REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY	AGENCY FILE NUMBER (If any)
Board of Chiropractic Examiners	

A. PUBLICATION OF NOTICE *(Complete for publication in Notice Register)*

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
Manipulation Under Anesthesia	16	361	September 3, 2004

3. NOTICE TYPE	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER *(Optional)*
☑ Notice re Proposed Regulatory Action ☐ Other	Lavella Matthews	(916) 263-6465	(916) 263-5369

OAL USE ONLY	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE
	☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/ Withdrawn		

B. SUBMISSION OF REGULATIONS *(Complete when submitting regulations)*

1a. SUBJECT OF REGULATION(S)	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
Manipulation Under Anesthesia	

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) *(Including title 26, if toxics-related)*

SECTION(S) AFFECTED *(List all section number(s) individually)*	ADOPT	AMEND	REPEAL
	Section 361		

TITLE(S)
16

3. TYPE OF FILING

☒ Regular Rulemaking (Gov. Code, § 11346)
☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code, §§ 11349.3, 11349.4)
☐ Emergency (Gov. Code, § 11346.1(b))
☐ Emergency Readopt (Gov. Code, § 11346.1(h))
☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, § 11346.1)

☐ Certificate of Compliance. The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.2 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Other (specify)

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE *(Cal. Code Regs. title 1, §§ 44 and 45)*

March 29, 2005 through April 9, 2005

5. EFFECTIVE DATE OF REGULATORY CHANGES *(Gov. Code, §§ 11343.4, 11346.1(d))*

☒ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☐ Effective other *(Specify)*

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) (SAM §6660) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

7. CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER *(Optional)*	E-MAIL ADDRESS *(Optional)*
Lavella Matthews	(916) 263-6465	(916) 263-5369	lmatthew@chiro.ca.gov

8. *I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.*

SIGNATURE OF AGENCY HEAD OR DESIGNEE	DATE
Catherine A. Hagen	8/24/05

TYPED NAME AND TITLE OF SIGNATORY

Executive Director

361. Manipulation Under Anesthesia (MUA).

A licensed Doctor of Chiropractic (licensee) may perform manipulation under anesthesia (MUA) provided that:

(a) The licensee has completed an MUA training course, consisting of a minimum of 32 hours, provided by a Board-approved chiropractic college and that is approved by the Board; and,

(b) The licensee shall complete, not less than every three (3) years, a re-training course in MUA meeting the requirements of (a) of this section; and,

(c) The MUA procedure is performed at a hospital that is licensed by the California Department of Health Services and certified by either Medicare or the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or is performed in an Ambulatory Surgery Center which meets the requirements of Health and Safety Code Section 1248-1248.5; and,

~~(d) The anesthetic, sedative or other drug is administered by a licensed medical or osteopathic physician, certified in anesthesiology through the American Board of Medical Specialties (ABMS); and.~~

(d) The patient has been evaluated by a medical or osteopathic physician who is familiar with MUA and has been approved by that physician for the MUA procedure/s and the administration of anesthesia, sedative or other drug; and,

(e) The licensee carries malpractice insurance with an endorsement for MUA.

A licensee who received MUA training prior to the effective date of Section 361 shall be deemed to be in compliance with the provisions of this section provided that:

1) The training was provided by a Board-approved continuing education provider within a period of three (3) years prior to the effective date of this section; and,

2) The MUA training provider was a Board-approved continuing education provider a minimum of one (1) year prior to the effective date of this section.

This regulation does not establish a chiropractic specialty or specialty certification and a MUA-trained licensee may not use any related designation or title.

Failure to comply with the provisions of this section shall constitute unprofessional conduct.

NOTE: Authority cited: Section 1000-4 (b), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii).

Reference: Section 1000-4 (e), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii).

BOARD OF CHIROPRACTIC EXAMINERS

PUBLIC SESSION MINUTES

Thursday, January 20, 2005

Regulation Committee

Dr. Hayes referred to Exhibit L, Memorandum on Proposed Regulations. Ms. Hayes announced that instead of introducing proposed language to sections 356 – Course Content, 306.1 - Quality Review Panel and 361 – Manipulation Under Anesthesia as noted on the agenda, a memorandum has been provided discussing the status of pending regulations and the goals set forth to further enhance the rulemaking process.

Dr. Hayes elaborated on the ongoing problems with the proposed language to Section 361 – Manipulation Under Anesthesia (MUA) and stressed the importance of the Board reaching a consensus on approval or disapproval on the proposed language. Following a discussion on whether chiropractors should or should not be allowed to perform MUA, the Board agreed that chiropractors should be allowed to perform MUA.

Ms. Hayes reminded the Board that although a consensus has been reached on the proposed language, the problem still arises by not including nurse anesthetists in the proposed language to administer anesthesia during the MUA procedure. Following a brief discussion on inclusion or non-inclusion of nurse anesthetists into the proposed language, Dr. Hayes referred to section "c" of the proposed language which states that the MUA procedure must be performed at a hospital that is licensed by the California Department of Health Services and certified by either Medicare or the Joint Commission on Accreditation of Healthcare Organizations. He indicated that based on the proposed language in section "c" the accredited hospital should make the determination as to who administers the anesthesia during the MUA procedure. Therefore, the Board agreed to remove section "d" of the proposed language which states, *"(d) The anesthetic, sedative or other drug is administered by a licensed medical or osteopathic physician, certified in anesthesiology through the American Board of Medical Specialists (ABMS)".* Dr. Hayes asked for a motion.

DR. HAMBY MOVED TO AMEND SECTION 361 BY REMOVING SECTION "D" OF THE PROPOSED LANGUAGE. DR. STANFIELD SECONDED THE MOTION. THE MOTION WAS APPROVED.

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

Board of Chiropractic Examiners
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Board of Chiropractic Examiners

Final Statement of Reasons

Hearing Date: October 21, 2004

Subject Matter of Proposed Regulations: Manipulation Under Anesthesia (MUA)

Sections Affected: Adopt Section 361 of Division 4 of Title 16

Updated Information

The Board, in response to the comment received, modified the proposed language by excluding a licensed medical or osteopathic physician certified in anesthesiology through the American Board of Medical Specialties to administer the anesthetic, sedative or other drug during the MUA procedure. Accredited hospitals where the MUA procedure is performed will determine who administers the anesthesia.

Local Mandate

A mandate is not imposed on local agencies or school districts.

Business Impact

This section will not have a significant adverse economic impact on businesses.

Consideration of Alternatives

No alternative that was considered would be either more effective than or equally as effective as and less burdensome to affected private persons than the proposed regulation.

Objections or Recommendations/Responses

The following comments were made regarding the proposed regulatory change:

Written Comments

By letter dated October 19, 2004, William E. Barnaby of Barnaby Governmental Relations, submitted a statement of concerns on behalf of the California Society of Anesthesiologists (CSA) regarding the following issues:

- There is not an adequate scientific or factual basis for a regulation that implies that MUA is within acceptable standards of practice.

Response

The California Code of Regulations, Division 4 of Title 16, does not require that chiropractic practices be evidence-based. This comment is not relevant to the proposed amendment, and, thus not within the scope of rulemaking.

- A regulation, which assumes the legality of MUA in chiropractic practice and thus implicitly authorizes it, cannot be reconciled with the Chiropractic Initiative Act. Anesthesiologists must be assured that their participation in MUA procedures does not raise liability concerns because of the application of the Chiropractic Act.

Response

The Chiropractic Initiative Act authorizes chiropractors within their scope of practice to perform spinal manipulation, stretching and mobilization procedures. The Act does not imply that these procedures are prohibited under the use of anesthesia. Furthermore, the Board has modified the language to rely on the accredited hospitals to make the determination as to who administers the anesthesia during the MUA procedure. The modification to the language will alleviate any liability concerns relating to the Act.

- The Board's Notice, in the section titled "Informative Digest/Policy Statement Overview", cites Section 302 of the Board's present regulations, which refers to authorization to manipulate and adjust the spinal column and other joints, and states "*there is no prohibition to the use of anesthesia to complete these manipulations*" (emphasis added). The Chiropractic Initiative Act which defines and regulates the chiropractic scope of practice, authorizes licensees to practice chiropractic as defined therein, but expressly excludes and thus prohibits "the use of any drug or medicine nor or hereafter included in material medica."

Response

The purpose of the proposed regulation is to ensure patient protection during treatment of MUA and licensees performing the procedure. According to the proposed language, it does not authorize a chiropractor to administer anesthesia. Accredited hospitals will determine who administers the anesthesia.

- A letter submitted by The Doctors Company endorses and supports the written comments submitted by Mr. Barnaby on behalf of CSA regarding the proposed regulation dealing with MUA.

Response

Refer to the response to the California Society of Anesthesiologists.

The California Orthopaedic Association expressed the following concerns:

- Comments that chiropractors should only be allowed to perform manipulation under anesthesia if all other treatments have been exhausted and not as the initial or routine course of treatment. In addition, the regulation should be clarified to specify that the medical physician evaluating the patient prior to the manipulation be limited to board certified orthopaedic surgeons, neurosurgeons, or physiatrists whose practice involves the treatment of spine problems.

Response

The Board does not agree that chiropractors should only be allowed to perform MUA after all other treatments have been exhausted. The Board is relying on a medical or osteopathic physician to make the appropriate recommendation for MUA treatment. In addition, the regulation provides that the recommending physician has knowledge of the MUA procedure and understand the options for the patient.

The California Medical Association expressed the following concerns:

- MUA is outside of the chiropractic scope of practice and raises serious questions concerning hospital privileges and malpractice liability that make such procedures untenable.

Response

MUA is increasing within the chiropractic profession and the procedure is being performed by a growing number of licensees. Currently there is no regulation that prohibits chiropractors from manipulating under anesthesia. Therefore, to ensure public safety, the proposed regulation requires that the MUA procedure be performed at a hospital that is licensed by the California Department of Health Services and certified

by either Medicare or the Joint Commission on Accreditation of Healthcare Organizations, or is performed in an Ambulatory Surgery Center which meets the requirements of Health and Safety Code Section 1248-1248.5. In addition, the proposed language requires licensees to carry malpractice insurance with an endorsement for MUA.

The Osteopathic Physicians & Surgeons of California (OPSC) expressed the following concerns:

- It is not clear whether the 32 hours required for training is sufficient
- There is no criteria indicated for training standardization
- Requirements for re-training are not clearly delineated
- Does not specify the qualifications of an MD/DO "familiar" with MUA
- Hospital licensure does not include the American Osteopathic Association's Healthcare Facilities Accreditation Program, nor is AOA certification of anesthesiologists noted
- A patient should not be exposed to the potential dangers associated with MUA if the procedure is performed by anyone other than a licensed physician

Response

Currently Section 302, Practice of Chiropractic, allows chiropractors to manipulate and adjust the spinal column and other joints of the human body with no prohibition to the use of anesthesia during these manipulations. The purpose of this regulation is to specify the educational requirements for licensees who perform MUA procedures and the conditions under which the procedures may be performed. The Board feels that the concerns expressed by OPSC are addressed within the proposed regulation in its entirety.

Public Hearing Comments

- Kristine Schultz, California Chiropractic Association, thanked the Board for its effort in implementing this regulation. However, she commented that the Board does not have the authority to define the scope of practice of other professions.

Response

The Board does not feel that the proposed language defines the scope of practice of other professions. This comment is not relevant to the proposed amendment, and, thus not within the scope of rulemaking.

- Melissa Cortez, representing California Association of Nurse Anesthetists (CANA), expressed her concerns regarding eliminating the Certified Registered Nurse Anesthetists (CRNA) in the proposed regulation as one of the providers of anesthesia during the MUA procedure.

Response

As mentioned, the Board has modified the language to rely on the accredited hospitals to make the determination on who administers the anesthesia during the MUA procedure.

- Patrick Shannon, representing the CANA, commented on the issues previously raised by Ms. Cortez.

Response

Please refer to the response previously addressed to Ms. Cortez.

- Kathleen Creason, representing the Osteopathic Physicians & Surgeons of California (OPSSC), reiterated the concerns as previously submitted in the letter dated October 20, 2004 discussed under written comments.

Response

Please refer to the response previously addressed to Ms. Creason under written comments.

- Ed Cremata, D.C. expressed his concerns on issues addressed by the California Association of Nurse Anesthetists and the Osteopathic Physicians & Surgeons of California during public comments. He elaborated on those issues and made suggestions to the Board on how to resolve them.

Response

The Board feels that the issues raised by the CANA and OPSC have been addressed during public comment. Therefore, this comment is not relevant to the proposed amendment, and, thus not within the scope of rulemaking.

- Rick Skala, D.C. commented on healthcare companies dictating what practice is appropriate for other professions.

Response

The Board feels that this comment is not relevant to the proposed amendment, and, thus not within the scope of rulemaking.

The modified language was made available to the public from March 25, 2005 through April 9, 2005.

Written Comment on Modified Language

William E. Barnaby, Inc. submitted comments on behalf of the CSA concerning the following:

- The proposed language allows a procedure that requires the use of drugs that is precluded by Section 7 of the Chiropractic Act. In addition, the proposed modification eliminates the requirement that anesthesia must be administered by a physician. The change could be read to suggest that chiropractors may administer the drugs used in the MUA procedure, compounding the violation of law, which is the precept of this regulation.

Response

The Board disagrees with this comment. Section 302, Practice of Chiropractic clearly defines the chiropractic scope of practice and does not imply that manipulation is prohibited under anesthesia. In addition, the proposed language does not suggest that chiropractors may administer the drugs used during the MUA procedure. The language was modified to allow the facility where the MUA procedure is performed to determine who administers the anesthesia. The anesthesiologist will be responsible for monitoring the patient throughout the procedure.

EXHIBIT 10

STATE OF CALIFORNIA

OFFICE OF ADMINISTRATIVE LAW

BOARD OF CHIROPRACTIC EXAMINERS
05 OCT -6 PM 1:03

In re:	NOTICE OF DISAPPROVAL OF REGULATORY ACTION
BOARD OF CHIROPRACTIC EXAMINERS	
REGULATORY ACTION:	Government Code Section 11349.3
Title 16, California Code of Regulations	OAL File No. 05-0826-03 S
Adopt sections 301	

OAL disapproves this regulatory action for the following reason(s):

The disapproved regulation(s) fail(s) to comply with the Authority, Clarity, Consistency and Necessity standard of Government Code section 11349.1.

Within seven (7) calendar days of the date of this notice, the Office of Administrative Law will send the adopting agency a written decision detailing the reasons for disapproval of the specified sections of this regulatory filing. Government Code Section 11349.3(b).

Enclosed is the agency's copy of the submitted regulations.

DATE: 10/05/05

WILLIAM L. GAUSEWITZ
Director

for: WILLIAM L. GAUSEWITZ
Director

Original : Kim Smith, Executive Director

cc : Lavella Matthews

STATE OF CALIFORNIA
OFFICE OF ADMINISTRATIVE LAW

BOARD OF CHIROPRACTIC EXAMINERS
05 OCT 13 PM 1:38

AGENCY:	BOARD OF CHIROPRACTIC EXAMINERS	DECISION OF DISAPPROVAL OF REGULATORY ACTION
		(Gov. Code, sec. 11349.3)
		OAL File No. 05-0826-03 S
ACTION:	Adopt section 361 of Title 16 of the California Code of Regulations	

DECISION SUMMARY

The California Board of Chiropractic Examiners (Board) proposed regulatory amendments to the California Code of Regulations (CCR) to permit licensed chiropractors to perform manipulation under anesthesia (MUA), subject to specified conditions. On August 26, 2005, the regulation was submitted to the Office of Administrative Law (OAL) for review. OAL notified the Board that it had disapproved the regulation on October 5, 2005. OAL disapproved the regulation because provisions of the regulation did not comply with the consistency, authority, necessity, and clarity standards of the Administrative Procedure Act (APA).

DISCUSSION

BACKGROUND

The Board regulates the practice of chiropractic pursuant to authority granted by the Chiropractic Initiative Act of California (Act), an initiative measure approved by the electors on November 7, 1922. Among other things, the Act grants authority to the Board to enforce and administer the Act, to license chiropractors, to establish educational requirements that must be met to become a licensed chiropractor, to approve chiropractic schools and colleges and to adopt such rules and regulations as it deems proper and necessary for the performance of its work. Regulations are required to be adopted pursuant to the requirements of the APA. The Act also establishes limits upon the scope of the practice of chiropractic.

Section 7 of the Act[1] is of particular relevance to this regulation. This section provides for the

1 § 7. **Certificate to practice; issuance; practice authorized:** One form of certificate shall be issued by the board of chiropractic examiners, which said certificate shall be designated "License to practice chiropractic," which license shall authorize the holder thereof to practice chiropractic in the State of California as taught in chiropractic schools

issuance of one form of license to practice chiropractic, authorizes any licensee to practice chiropractic as taught in chiropractic schools and colleges, and authorizes the use of specified incidental measures in the practice of chiropractic. It also specifies restrictions upon legally permissible practices within the practice of chiropractic.

This regulation would amend Article 6 of the Board's regulations, which establishes requirements for continuing education for chiropractors. In summary, the regulation would:

- Authorize a licensed chiropractor to perform MUA;
- Require a chiropractor performing MUA to have completed a 32-hour MUA training course;
- Require retraining in MUA not less than every three years;
- Require MUA to be performed only in a licensed hospital or ambulatory surgery center;
- Require any patient receiving MUA from a chiropractor to have been evaluated and approved for the treatment by a licensed medical or osteopathic physician who is familiar with MUA;
- Require the chiropractor performing MUA to have malpractice insurance endorsed for MUA;
- Specify circumstances under which may be performed by a chiropractor who was trained in MUA prior to the effective date of the regulations;
- State that the regulation does not establish a chiropractic specialty or specialty certification; and
- Declare that a chiropractor who performs MUA without complying with the provisions of the regulation has committed unprofessional conduct.

OAL reviewed the regulation to determine whether or not it complies with the APA. The relevant APA requirements with respect to this regulation are Necessity, Authority, Clarity, and Consistency (Government Code[2] section 11349.1(a)(1) through 11349.1(a)(4)). In several specific provisions the regulation does not satisfy these APA requirements. The specific provisions and the associated APA requirements will be discussed individually below.

OAL disapproval of the regulation is based exclusively upon failure of the regulation to conform to the requirements of the APA and should not be interpreted otherwise. Specifically, OAL did not examine the basic question of whether MUA is within the lawful scope of the practice of chiropractic and OAL did not examine or evaluate any issues involving the Medical Practice Act (Business and Professions Code, Division 2, Chapter 5, beginning at section 2000).

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or colleges; and, also, to use all necessary mechanical, and hygienic and sanitary measures incident to the care of the body, but shall not authorize the practice of medicine, surgery, osteopathy, dentistry or optometry, nor the use of any drug or medicine now or hereafter included in materia medica.

2 Unless stated otherwise, all California Code references are to the Government Code.

SPECIFIC ISSUE ANALYSES

1. Consistency. The proposed regulation has the effect of creating two types of chiropractors, those who may lawfully perform MUA and those who may not. This provision of the regulation is inconsistent with section 7 of the Act, which provides that possession of a license to practice chiropractic "shall authorize the licensee to practice chiropractic in the State of California as taught in chiropractic schools or colleges." The Act clearly authorizes only one form of license to practice and that all licensees are authorized to practice chiropractic on an equal basis. This regulation is inconsistent with this provision of the Act since it defines a component of chiropractic practice that some licensees may perform but others may not. In so doing it is inconsistent with section 7 of the Act and, thus, fails to satisfy the consistency standard of the APA.

The regulation contains a specific provision saying that "this regulation does not establish a chiropractic specialty or specialty certification and a MUA-trained licensee may not use any related designation or title." The inclusion of this provision does not rescue the regulation from the one-form-of-license restriction of section 7 of the Act. Although this provision would prevent a chiropractor authorized by the regulation to perform MUA from advertising this as a specialty, it would not alter the fundamental fact that the regulation effectively creates two types of chiropractic license. A chiropractor who complies with the regulation is licensed to perform MUA. A chiropractor who has not complied with the regulation is not licensed to perform MUA. Although the licenses may appear identical, this provision in fact creates two forms of license. Despite the disclaimer in the regulation saying that it does not establish a chiropractic specialty, it does, in fact, create two categories of licensees – those who may lawfully perform MUA and those who may not. This is inconsistent with the provision of section 7 of the Act providing that all licensees are authorized to "practice chiropractic in the State of California as taught in chiropractic schools and colleges."

2. Authority. The Board cites Business and Professions Code section 1000-4(b), which is the codification of section 4(b) of the Act[3], as the statute providing the authority to adopt this regulation. Section 4(b) grants the Board broad authority to adopt rules and regulations. This

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3 § 4. Powers of board
(a) . . .
(b) To adopt from time to time such rules and regulations as the board may deem proper and necessary for the performance of its work, the effective enforcement and administration of this act, the establishment of educational requirements for license renewal, and the protection of the public. Such rules and regulations shall be adopted, amended, repealed and established in accordance with the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code as it now reads or as it may be hereafter amended by the Legislature.

authority, however, is not unlimited. In particular, it requires the rules to be adopted in accordance with the provisions of the APA.

It is well-established law that an administrative agency may not, under the guise of its rule-making power, exceed the scope of its authority and act contrary to the statute which is the source of its power. *California Employment Commission v. Kovacevich* (1946) 27 Cal.2d 546, 553, 165 P.2d 917, 921. To be valid, administrative action must be within the scope of authority conferred by the enabling statutes. *American Insurance Association v. Garamendi* (2005) 127 Cal.App.4th 228, 236, 24 Cal.Rptr.3d 905, 910. This principle is embodied in section 11342.2[4]. The principle is made specific in 1 CCR 14(c)(1)(A), which provides, in pertinent part, that "an agency's interpretation of its regulatory power, as indicated by the proposed citations to 'authority' or 'reference' or any supporting documents contained in the rulemaking record, shall be conclusive unless . . . the agency's interpretation alters, amends or enlarges the scope of the power conferred upon it."

The Board's interpretation of its power pursuant to section 4(b) of the Act does alter, amend, or enlarge the scope of power conferred upon it by the Act. As discussed above, Section 7 of the Act authorizes the Board only to issue "one form of . . . license" and provides that any licensee may "practice chiropractic . . . as taught in chiropractic schools and colleges." By adopting this regulation and creating two categories of licenses and, thus, two categories of licensees, the Board has taken an action that enlarges upon its scope of power to issue "one form of . . . license." The regulation, therefore, fails to satisfy the authority requirement of section 11349.1(a)(2).

3. Necessity. The record presented with this regulation does not adequately establish the necessity for the proposed rule. In order for a regulation to be valid, the record of a rulemaking must demonstrate "by substantial evidence the need for a regulation to effectuate the purpose of the statute, court decision, or other provision of law that the regulation implements, interprets, or makes specific, taking into account the totality of the record," (section 11349(a)). This requirement is made specific in 1 CCR 10(b)[5].

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4 Section 11342.2 provides as follows: Whenever by the express or implied terms of any statute a state agency has authority to adopt regulations to implement, interpret, make specific or otherwise carry out the provisions of the statute, no regulation adopted is valid or effective unless consistent and not in conflict with the statute and reasonably necessary to effectuate the purpose of the statute.

5 Subdivision (b) of 1 CCR 10 provides as follows: (b) In order to meet the "necessity" standard of Government Code section 11349.1, the record of the rulemaking proceeding shall include:
(1) A statement of the specific purpose of each adoption, amendment, or repeal; and
(2) information explaining why each provision of the adopted regulation is required to carry out the described purpose of the provision. Such information shall include, but is not limited to, facts, studies, or expert opinion. When the explanation is based upon policies, conclusions, speculation, or conjecture, the rulemaking record must include, in addition, supporting facts, studies, expert opinion, or other information. An "expert" within the meaning of this

The record submitted to OAL does not adequately establish either the overall necessity for the regulation nor does it contain an adequate demonstration of the necessity for each provision. The Initial Statement of Reasons (ISOR) states that "presently there is no regulation in effect that would ensure patient protection during treatment of manipulation under anesthesia (MUA) and licensees performing the procedure." There is nothing in the file, such as evidence of actual harm, studies, expert opinion, or other information demonstrating the need for the regulation. The absence of a regulation is not evidence of need for a regulation.

In detailing the factual basis for the regulation, the ISOR indicates that "[i]nterest in MUA is increasing within the profession, and, thus, MUA procedures are being performed by a growing number of licensees." It goes on to cite the intent of the regulation to "minimize the likelihood of harm," and to "ensure the highest quality of care." All of the statements in the ISOR, however, are conclusions or statements of intent. There is no factual basis in the ISOR or elsewhere in the record demonstrating the actual need for the regulation.

Although the asserted need for the regulation is the protection of the public from inadequately trained chiropractors performing MUA, there is no evidence demonstrating that the current practices by chiropractors performing MUA presents a threat to public health. The file contains no supporting facts, studies, expert opinion, or other information for the conclusion that the regulation is necessary. Absent a stronger factual showing of the problem that motivates this regulation and an explanation of how the regulation corrects that problem, the rulemaking file as submitted fails to demonstrate necessity as required by the APA.

The record is also deficient in explaining the need for many of its specific provisions. Among these specific deficiencies are the following:

- The 32-hour requirement: The record contains no information indicating how the Board determined that 32 hours of training is required and sufficient for a chiropractor to perform MUA;
- The 3-year retraining requirement: The record does not contain the facts upon which the Board concluded that retraining every 3 years is required and adequate;
- The evaluation requirement: The record contains no facts to demonstrate why evaluation of a potential MUA patient by a medical or osteopathic physician is required; and
- The malpractice insurance requirement: The record is silent as to why the regulation requires any chiropractor performing MUA to carry malpractice insurance endorsed for MUA.

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section is a person who possesses special skill or knowledge by reason of study or experience which is relevant to the regulation in question.

With respect to this specific issue, OAL is not evaluating whether or not this regulation, or the specific individual components of the regulation, are in fact necessary. The necessity standard of the APA is a requirement that a showing of necessity be made. In this rulemaking record, the showing of necessity is inadequate. Based upon the record before us, this regulation lacks a factual basis to establish necessity pursuant to the APA.

4. Clarity. The APA requires regulations to be clear. The clarity standard is defined in section 11349(c) as "written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them." This definition is made specific in 1 CCR 16. Of particular relevance to this file is 1 CCR 16(a)(5), which provides that a regulation is not clear if it "presents information in a format that is not readily understandable by persons 'directly affected[6]'." The MUA regulation is not displayed in a manner that conforms to the clarity standard of the APA.

The regulation would add section 361 to Article 6 of Division 4 of Title 16 of the CCR. Article 6 is entitled "Continuing Education" in the CCR. The majority of the regulation under review deals with continuing education, but the regulation also contains significant provisions which are not related to continuing education. Among these provisions are:

- The explicit grant of authority for chiropractors to perform MUA;
- The requirement that MUA be performed only in a specified health facility;
- The requirement that a medical or osteopathic physician evaluate the patient before receiving MUA from a chiropractor;
- The requirement that a chiropractor performing MUA carry malpractice insurance endorsed for MUA;
- The "grandfather clause" for chiropractors who received training prior to the effective date of the regulation;
- The statement that the regulation does not create a chiropractic specialty; and
- The provision declaring violation of the regulation to be unprofessional conduct.

This display is fundamentally confusing. A person directly affected by this regulation would be unlikely to look to the Continuing Education article of the CCR to find substantive proposals such as these. In order to comply with the clarity standard, the regulation should not be placed in

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6 With respect to this issue, "persons directly affected" includes both the chiropractors who are directly subject to the regulation and the members of the public who would receive MUA treatment by those chiropractors. 1 CCR 16(b) defines who is "directly affected" by a regulation. 1 CCR 16(b)(1) applies the term to those who "legally required to comply with the regulation", which in this case would be chiropractors. 1 CCR 16(b)(3) applies the term to those who "derive from the enforcement of the regulation a benefit that is not common to the public in general." Any benefit of these regulations accrues to chiropractic patients who receive MUA, not to the public in general. Therefore, with respect to this rulemaking file, members of the public who receive MUA from chiropractors are also "persons directly affected" for purposes of the clarity standard of the APA.

Article 6. As adopted by the Board, the regulation fails to satisfy the clarity standard of the APA with respect to clarity of display.

The requirement that a chiropractor performing MUA must carry "malpractice insurance with an endorsement for MUA" also fails to satisfy the clarity standard in that it doesn't identify the amount of insurance required. A chiropractor hoping to comply with this provision would be unable to determine how much coverage it took to comply.

THE PRACTICE OF MEDICINE AND THE USE OF DRUGS

One other significant issue, although not a factor in this disapproval, must be addressed in any resubmission of the regulation to OAL. This is the question of whether this regulation is consistent with the provisions of section 7 of the Act providing that a license to practice chiropractic "shall not authorize the practice of medicine, surgery, osteopathy, dentistry or optometry, nor the use of any drug or medicine now or hereafter included in materia medica." The record submitted to OAL with this regulation does not contain adequate information from which to evaluate this question.

The record contains public comment alleging that performance of MUA by a chiropractor constitutes the unlawful practice of medicine in violation of the Medical Practice Act. As indicated above, this disapproval is not based upon evaluation of that issue. The record before OAL is inadequate to complete this analysis. This is, however, a threshold issue. If the regulation is inconsistent with section 7 of the Chiropractic Initiative Act or with the provisions of the Medical Practice Act, it cannot be a valid regulation.

Due to the limited information provided in the file, OAL cannot evaluate whether the regulation improperly authorizes the practice of medicine. Should the Board elect to correct the deficiencies identified in this Decision of Disapproval and resubmit this regulation pursuant to section 11349.4, the record submitted must provide information adequate to demonstrate that the practice of MUA by a chiropractor is consistent with the Medical Practice Act and with the provision of section 7 of the Chiropractic Initiative Act, which provides that a license to practice chiropractic does not authorize the practice of medicine.

Also due to the limited information provided in the record, OAL cannot evaluate whether or not the regulation is consistent with the provision of section 7 of the Act providing that a license to practice chiropractic does not authorize "the use of any drug or medicine" in the practice of chiropractic. The rulemaking record demonstrates clearly that the regulation does not authorize a chiropractor to *administer* anesthesia. The Act, however, is broader than this. It prohibits the *use* of any drug or medicine in the practice of chiropractic. If the use of anesthesia is integral to the performance of MUA, and if anesthesia is a "drug", it is highly questionable whether the regulation is consistent with the Act's prohibition on "the *use* of any drug or medicine."

In the ISOR and elsewhere in the record, the Board states that section 302 of its regulations, which defines the practice of chiropractic contains "no prohibition on the use of anesthesia during . . . manipulations." This is true, but irrelevant. The issue which must be evaluated is not whether the Board has previously decided to prohibit the use of anesthesia by regulation. The relevant question is whether or not the Chiropractic Initiative Act and the Medical Practice Act permit the use of anesthesia in chiropractic treatment.

While it seems intuitively reasonable to conclude that MUA does, in fact, involve the "use of [a] drug," the rulemaking record is inadequate to determine this as a matter of law and the analysis conducted by OAL is restricted to the content of the rulemaking record[7]. The record submitted for our review contains inadequate information to support a definitive legal determination that the performance of MUA involves the "use" of a drug. Indeed, the record does not even define what MUA is. Should the Board elect to resubmit this regulation pursuant to section 11349.4, the record submitted should provide information adequate to demonstrate that the practice of MUA does not violate the prohibition of section 7 of the Act against the use of any drug or medicine by a chiropractor.

CONCLUSION

As explained above, OAL disapproves the regulatory action for failure to comply with the consistency, authority, necessity, and clarity standards of the APA. If you have any questions, please do not hesitate to contact me at (916) 323-6221.

DATE: October 11, 2005

WILLIAM L. GAUSEWITZ
Director

Original: Kim Smith, Executive Director
cc: Lavella Matthews

7 Section 11349.1(a)

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

OFFICE OF ADMINISTRATIVE LAW
300 Capitol Mall, Suite 1250
Sacramento, CA 95814
(916) 323-6225 FAX (916) 323-6826

WILLIAM L. GAUSEWITZ
Director

EXHIBIT 11

MEMORANDUM

TO: David Hinchee
FROM: Bill Gausewitz
RE: Effect of the Disapproval of the MUA Regulations
DATE: October 13, 2005

Following up on our conversation of this morning, I wanted to give you a more formal explanation of possible future procedure that could result from OAL's disapproval of the MUA regulation. Please keep in mind that I am only describing issues related to procedure. I cannot and will not offer legal or tactical advice to the Board. You should obtain independent legal advice when you consider the desirability of any particular legal strategy.

OAL has disapproved the MUA regulation – OAL file number 05-0826-03 S. The OAL Decision of Disapproval was mailed to the Board of Chiropractic Examiners on October 11, 2005. Pursuant to Government Code section 11349.4, The Board now has 120 days from the date of receipt of the Decision (until February 9, 2006, assuming that you received the Decision yesterday) to correct the deficiencies identified in the Decision and to resubmit the regulation to OAL for further review. Upon showing of good cause, I am permitted, but not required, to extend the 120 limit.

If correcting these deficiencies results in significant changes to the substantive provisions of the regulation, the Board would be required comply with the notice and public hearing requirements of sections 11346.4, 11346.5, and 11346.8 of the Government Code. Several of the deficiencies are so fundamental to the substance of the regulation that I cannot see any way that they could be corrected without significant changes to the substantive provisions of the regulation.

If you elect to resubmit the regulation, OAL would review the file only for those reasons expressly identified in the Decision of Disapproval or for issues arising as a result of any substantial change to the regulation. This is why I included a discussion of the scope of practice issue in the Decision of Disapproval. Although OAL did not base this disapproval on the scope of practice issue, if the Board elects to resubmit the regulation, we retain the right to evaluate and rule upon the core question of whether the performance of MUA by chiropractors is consistent with the Chiropractic Initiative Act and the Medical Practices Act.

If you do not elect to resubmit the regulation to the OAL, or if you resubmit it and OAL again disapproves it, the Board has the right pursuant to Government Code section 11349.5 to appeal the disapproval to the Governor. This is a rarely-used procedure (the last appeal to the Governor was in 1996) but it is an available option.

Should a regulation authorizing chiropractors to perform MUA be enacted, either through OAL approval of a resubmitted file or through a successful appeal to the Governor, the matter could still go to court. Under section 11350 of the Government Code "any interested person may obtain a judicial declaration as to the validity of any regulation . . . by bringing an action for declaratory relief in the superior court." In other words, if the Board is successful in getting MUA regulation into the California Code of Regulations, that very success could create the basis for a lawsuit challenging the regulation to be brought by any interested person, including the people and groups who opposed the regulation.

A suit under section 11350 would be brought directly against the Board of Chiropractic Examiners. Under section 11350(c), neither OAL approval of a regulation nor the Governor's overturning of a disapproval by OAL may be considered by the court in a section 11350 lawsuit.

In a lawsuit under section 11350, the courts would not be limited to reviewing OAL's actions. Section 11350 does not restrict the courts to examining whether or not the regulation complies with the APA or whether or not OAL acted properly in its review. Under the authority of section 11350, a court would have the power, for example, to issue a declaratory judgment holding that the practice of MUA by a chiropractor constituted the unauthorized practice of medicine under the Medical Practice Act. In other words, if the Board is successful with this regulation, it could create a legal opportunity that does not presently exist for people to challenge the basic legality of having MUA performed by a chiropractor.

There is one other legal option of which you should be aware. Under Government Code section 11350.3, the Board of Chiropractic Examiners, or any other interested person, has the right to sue OAL for wrongfully disapproving the regulation. There has never been a successful lawsuit against OAL under this section. Under customary rules of judicial review, success in such an action would require proof by the plaintiff that OAL abused its discretion under the law in disapproving the regulation. This is a nearly impossible standard to meet except in the most extreme cases. I am personally confident that OAL's disapproval would not be held to be an abuse of discretion. As with an action pursuant to section 11350, an action against OAL pursuant to 11350.3 would create the opportunity for a court to rule on the underlying legality of MUA use by chiropractors.

I hope that this helps explain your options in light of the OAL's disapproval of the MUA regulation. Please do not hesitate to contact me if you have additional questions. My telephone number is (916) 323-6221.

EXHIBIT 12

LICENSING

Licensing Statistics

Mr. Hinchee reported that the Licensing Unit is up-to-date with all licensing issues and is operating efficiently.

Chiropractic Law and Professional Practices Exam (CLPPE)

Mr. Hinchee referred to exhibit K, CLPPE handout for the quarterly report on exam scores.

Discussion and Action re: College Approval/ Palmer-Florida

Ms. Hayes referred to exhibit L regarding discussion on College Approval/Palmer-Florida and deferred to public comment regarding this issue.

Dr. Stanfield inquired of Dr. Douglas Hoyle, Chief Institutional Effectiveness Officer, representing all three Palmer Campus', if an updated brochure has been completed and forwarded to the Board for review. Dr. Hoyle commented that a new edition would be available in mid-December 2005. He also informed the Board that in 2002 Palmer-Florida achieved licensure in Florida and have maintained licensure annually. Dr. Hoyle added that Palmer-Florida has achieved regional accreditation as a branch campus through the North Central Association and Council on Chiropractic Education (CCE) accreditation and all other states.

Dr. Stanfield informed Dr. Hoyle that the Board would consider all comments presented, along with documents submitted, and will contact him by mid-November 2005.

Dr. Craw requested clarification on what part of Florida's program is regionally accredited. Dr. Hoyle explained that the North Central Association provides institutional accreditation for the entire campus whereas CCE only accredits the chiropractic program. He further explained that since Palmer-Davenport College is regionally accredited and Palmer-Florida is viewed as a branch campus of Davenport, the regional accreditation was extended from Davenport to Florida. Following further discussion by the Board regarding Florida regional accreditation, Dr. Stanfield again informed Dr. Hoyle that the Board will contact him by letter regarding the approval/denial of Palmer-Florida.

Ms. Hayes referred the Board to a letter in the supplemental folder, regarding correspondence from Martha O'Connor, Executive Director for the CCE. Ms. Hayes indicated that the letter alleges that the Board disbursed to the public a final copy of the site visit for one of the CCE accredited programs and claimed that it was a major departure from past practices and identifies this report as containing confidential information. Ms. O'Connor requested that the Board protect the confidentiality of the Doctor of Chiropractic Programs and institutions and discontinue distribution of confidential information to the public.

Ms. Hayes explained that her letter of response to CCE pointed out that under the law the Board is required to make such reports available to the public and that it cannot be reviewed secretly.

REGULATORY AND LEGISLATIVE UPDATE

Regulation Hearing

Public Hearing was held on the following proposed regulation:

- Section 384 – Disciplinary Guidelines

Update on Manipulation Under Anesthesia (MUA)

Dr. Stanfield announced that the Office of Administrative Law (OAL) rejected the Board's proposed regulation on MUA. Dr. Stanfield asked for public comment regarding OAL disapproval.

Charles G. Davis, D.C., representing International Chiropractor's Association of California, commented on the issues

Ed Cremata, D.C., commented on OAL's denial of MUA and provided the Board with various handouts and literature on updated information pertaining to MUA and the safety and ethicizes of the procedure. Dr. Cremata referenced a letter from Raymond Ursillo, D.C. authorizing chiropractors to practice MUA in California.

Roger Calton, Esq., appeared on behalf of chiropractors supporting MUA and addressed the rejection of the MUA regulation and the issues dealing with the chiropractic scope of practice. Mr. Calton distributed a handout on his interpretation of the specifics addressed in the OAL denial.

Kristine Schultz, California Chiropractic Association (CCA), commented that CCA disagrees with the rejection by OAL and offers their support and assistance if the Board considers resubmitting the MUA regulation.

Rick Skala, D.C. inquired if the Board knew how many chiropractors are performing MUA or how many MUA procedures are performed in California. He referred to a statement made in the in the "Final Statement of Reasons" that states, MUA is on the rise. He inquired how the Board obtained this information. Dr. Craw responded that it was a general statement based on statistics from pass decades.

Dr. Stanfield announced that all comments would be taken into consideration that will assist the Board in making a determination to address OAL concerns or withdraw the regulation.

Jana Tuton, Deputy Attorney General, explained that the letter for Dr. Ursillo authorizing chiropractors to perform MUA is not a binding document and no employee has the authority to issue a policy statement on behalf of the Board. She suggested to the Board to either address the concerns of OAL or do nothing.

CONTINUING EDUCATION COMMITTEE

Discussion and Action re: Approval of CE Provider(s) and Courses

Dr. Hamby announced that effective January 1, 2006, the following documents are required in addition to the regular CE requirements: 1) a copy of the course syllabus, 2) any handouts that will be distributed in the courses or a statement indicating that none will be distributed, 3) a copy of all course promotional material and, 4) copy of any certificate, diploma, proof of completion or other document that will be given to the attendee.

Dr. Stanfield commented that all courses offered on or after January 1, 2006, must meet the new CE requirements.

Gerard W. Clum, D.C., Life Chiropractic College West inquired if the new CE requirement is considered an underground regulation. Dr. Stanfield explained that under the provisions for CE the Board has the authority to make revisions dealing with CE.

Kendra Holloway, D.C., Life Chiropractic College West, suggested that a space be provided on the application for the title of the seminar.

Dr. Stanfield asked for a motion regarding the revised CE requirement.

DR. HAMBY MADE A MOTION THAT EFFECTIVE JANUARY 1, 2006 ALL COURSES OFFERED ON OR AFTER THAT DATE MUST MEET THE NEW CE REQUIREMENTS. DR. HAYES SECONDED THE MOTION. VOTE: 7-0. MOTION CARRIED.

Dr. Hamby referred to Exhibit G, Course/Provider Worksheet for Board member review and signatures.

Dr. Hamby referred to the CE hold on the application from the University of Bridgeport College of Chiropractic. Dr. Craw explained that further clarification of the course has been requested. Following a brief discussion on approval/ disapproval of the CE course, Dr. Hayes suggested making a decision based on the information submitted with the CE application. Dr. Stanfield asked for a motion.

DR. HAYES MADE A MOTION TO DISAPPROVE THE CE APPLICATION SUBMITTED FROM UNIVERSITY OF BRIDGEPORT AND TO ADOPT THE REMAINING LIST OF APPROVED CE PROVIDERS AND COURSES. DR. YOSHIDA SECONDED THE MOTION. VOTE: 7-0. MOTION CARRIED.

Dr. Clum requested further clarification as to why the new CE requirements do not meet the Administrative Procedure Act guidelines. Mr. Bishop commented that the CE requirements are simply Board guidelines used to determine if an application meets the CE requirements.

PUBLIC COMMENT

Lou Ringler, representing Innercalm Associates, commented on the discussion held at the September 2005 Board meeting regarding their X-ray seminar. Mr. Ringler provided a letter to the Board requesting a reinstatement of X-ray hours previously denied. Dr. Stanfield stated that this issue would be discussed at the CE committee meeting.

ANNOUNCEMENTS

Dr. Stanfield announced that the next Board meeting will be held in Sacramento on November 17, 2005.

Dr. Hayes inquired on the timeline to respond to OAL rejection of the MUA regulation. Mr. Hinchee explained that the Board has 120 days to either address the issues raised in the disapproval or withdraw the regulation.

NEW BUSINESS

There was no new business.

ADJOURN

Dr. Stanfield adjourned the meeting at 2:45 p.m.

Dr. Stanfield called the meeting to order at 9:30 a.m.

Roll Call

Dr. Tyler called the roll. All members were present.

Petition Hearing for Early Termination of Probation

Staff Counsel, Paul Bishop, presided over the following petition hearings:

- Daniel D. Alcocer, D.C.

Following oral testimony, the Board recessed into executive session at 10:02 a.m. to consider the petitioner's request for early termination of probation.

- Brian A. Brown, D.C.

Following oral testimony, the Board recessed into executive session at 10:29 a.m. to consider the petitioner's request for early termination of probation.

Petition Hearings for Reinstatement of Revoked License

- David Cuong Manh Nguyen

Following oral testimony, the Board recessed into executive session at 11:53 a.m. to consider the petitioner's request for reinstatement of revoked license.

- Salim Akhtar Chowdry

Following oral testimony, the Board recessed into executive session at 12:26 p.m. to consider the petitioner's request for reinstatement of revoked license.

Dr. Stanfield recessed into closed session at 1:22 p.m. Dr. Stanfield reconvened into open session at 1:31 p.m. Dr. Tyler recalled the roll. All members were present.

Discussion and Action re: Regulation Proposals

Ms. Hayes reported that due to the public comments made at the October 20, 2005 Board meeting, regarding Section 384, Disciplinary Guidelines staff made two non-substantiative clarification changes to the language.

DR. YOSHIDA MADE A MOTION TO SEND THE RULEMAKING PACKET TO THE OFFICE OF ADMINISTATIVE LAW. DR. HAYES SECONDED THE MOTION. VOTE: 6-0. MOTION CARRIED.

Ms. Hayes reminded the Board that a decision should be made regarding Section 361, Manipulation Under Anesthesia (MUA). Following a brief discussion regarding Section 361, Dr. Stanfield asked for a motion.

DR. YOSHIDA MADE A MOTION TO STUDY THE FEASIBILITY TO DO AWAY WITH THE ACT OR MODIFY THE ACT. DR. TYLER SECONDED THE MOTION. VOTE: 6-0. MOTION CARRIED.

Dr. Stanfield asked for clarification to the motion to address the MUA issue. She indicated that the Board could do nothing and let the MUA matter go through its course or rewrite it to meet the regulation standards as outlined by Office of Administrative Law, or withdraw it completely.

JUDGE DUVARAS MOVED TO WITHDRAW THE MUA REGULATION. DR. YOSHIDA SECONDED THE MOTION. VOTE: 6-0. MOTION CARRIED.

Dr. Yoshida left the meeting at 1:58 p.m.

Continuing Education (CE) Committee

Dr. Stanfield directed the Board to review the "Notice to All Providers Letter" in their Board packet and asked for a motion.

DR. TYLER MOVED TO ADOPT THE "NOTICE TO ALL PROVIDERS LETTER." DR. HAYES SECONDED THE MOTION. VOTE: 5-0. MOTION CARRIED.

Dr. Hamby referred to Exhibit G, Course/Provider Worksheet for Board member review and signatures.

DR. HAMBY MOVED TO ADOPT THE LIST OF APPROVED CE PROVIDERS AND COURSES. DR. HAYES SECONDED THE MOTION. VOTE: 5-0. MOTION CARRIED.

Dr. Stanfield reported that an issue was brought to staff's attention regarding out-of-state doctors teaching adjustive techniques in California. She further reported that there is no problem if the doctor is hired as a consultant and is performing lectures. However, Dr. Stanfield asked the Board if there is a need to look into this further and change the regulation regarding chiropractors that do not have an active California license and whether they are allowed to teach the hands-on portion of adjustive technique in California. Following a brief discussion, Dr. Stanfield asked for a motion.

DR. HAYES MADE A MOTION FOR THE CE COMMITTEE TO INTERPRET CONSULTATION UNDER SECTION 16 OF THE CHIROPRACTIC INITIATIVE ACT TO INCLUDE TEACHING AT A CONTINUING EDUCATION SEMINAR. DR. TYLER SECONDED THE MOTION. VOTE: 5-0. MOTION CARRIED.

Examination/Licensing Committee

Ms. Hayes referred to Exhibit L and reported that Palmer Chiropractic College, Florida, is seeking to get Board approval for graduates from their college. Dr. Stanfield advised the Board that a decision needed to be made whether to deny the application; ask Palmer College to provide the correspondence between the Council on Accreditation (COA) and themselves regarding their accreditation; or to approve their application. After a brief discussion, the Board agreed to ask Palmer College to provide correspondence between COA and themselves pertaining to their first, second, and possibly third onsite visit and present it to the Board and depending if the information is received in time, it will be revisited in January 2006.

DR. HAMBY MADE A MOTION FOR PALMER COLLEGE TO PROVIDE CORRESPONDENCE. JUDGE DUVARAS SECONDED THE MOTION. VOTE 4-1. MOTION CARRIED.

Sunset Review Committee

Ms. Hayes reported that the hearing date for the Board's Sunset Review is December 6, 2005.

Dr. Stanfield adjourned the meeting at 2:40 p.m.

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Governor's Comments About Chiropractic Board Draw Fire
March 9, 2007

Comments by Gov. Arnold Schwarzenegger (R) about the Board of Chiropractic Examiners sparked criticism from consumer advocates who say the governor appeared to be diminishing the board's obligations to consumers, the *Sacramento Bee* reports (Yamamura, *Sacramento Bee*, 3/9).

The board's conduct has come under scrutiny this week from state officials, lawmakers and attorneys. Franco Columbu and Richard Tyler, personal friends of the governor's for four decades, are at the center of the recent controversy.

The board last week fired its executive director and attempted to ignore state law and replace the deputy attorney general with a chiropractic attorney as a representative to the board.

The board last week also approved a resolution supporting a controversial practice that was rejected in 2005 by the Office of Administrative Law, which oversees new state regulations (*California Healthline*, 3/8).

The governor said, "What is important is that the chiropractic board represents the chiropractors. And each board represents their profession."

Adam Mendelsohn, the governor's communications director, said Schwarzenegger did not mean to suggest the board should represent chiropractic interests. He said, "It is the governor's hope that the board appropriately manages the chiropractic industry, consumers, chiropractors and all of those involved."

Julie D'Angelo Fellmeth, administrative director for the Center for Public Interest Law at UC-San Diego, said Schwarzenegger's remark "represents a fundamental misunderstanding of these boards." She added, "This board is supposed to regulate the chiropractic profession in the public interest, not in the interest of the chiropractic profession" (*Sacramento Bee*, 3/9).

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Governor fuels board furor

He's criticized for saying chiropractic panel should represent the industry.

By Kevin Yamamura - Bee Capitol Bureau
Published 12:00 am PST Friday, March 9, 2007

Gov. Arnold Schwarzenegger drew immediate criticism Thursday for declaring that the state's Board of Chiropractic Examiners should represent chiropractors despite the panel's mission statement of protecting the public.

The Republican governor made the remark as he tried to distance himself from his own chiropractic appointees, including two of his earliest bodybuilding friends, after the board took questionable actions last week that consumer advocates say favor the chiropractic industry.

"They run their board by themselves, independent of us," Schwarzenegger said after touring the San Joaquin County jail in French Camp to promote his prison plan. "We don't give them directions. What is important is that the chiropractic board represents the chiropractors. And each board represents their profession."

The board's three-part mission statement includes protecting Californians from "fraudulent or incompetent practice of chiropractic," as well as licensing applicants and enforcing the 1922 chiropractic act, according to its Web site.

Julie D'Angelo Fellmeth, administrative director for the Center for Public Interest Law at the University of San Diego, said the governor's comment "represents a fundamental misunderstanding of these boards. This board is supposed to regulate the chiropractic profession in the public interest, not in the interest of the chiropractic profession."

The board at its March 1 meeting fired its executive director, ejected a deputy attorney general from a meeting, endorsed a controversial chiropractic technique that involves use of an anesthesiologist and certified a Florida chiropractic college that did not have an active application in place. The meeting spiraled so out of control that five California Highway Patrol officers were called in to keep the peace.

Two of Schwarzenegger's earliest friends from his bodybuilding days who now practice as chiropractors were at the center of the action.

Richard Tyler was the governor's first chiropractor, according to Schwarzenegger spokesman Aaron McLear. He became board chairman for the first time at the March 1 meeting and led the panel in its controversial moves.

Tyler, 74, has previously advocated for chiropractic as "more than just a tool to move bones" and as a way to impact "the function of the internal organs," according to a 1991 article he wrote for industry magazine Dynamic Chiropractic.

In a December board meeting, Tyler said he agreed with one chiropractor who advertised that "vaccines are not proven to be effect or safe and that they weaken the immune system." He did not return calls from The Bee on Thursday.

The panel that day also included Franco Columbu, a two-time Mr. Olympia who was best man in Schwarzenegger's wedding to first lady Maria Shriver. Schwarzenegger appointed Tyler in 2004 and Columbu in 2006 to four-year terms.

Schwarzenegger communications director Adam Mendelsohn said Thursday, "It is the governor's hope that the board appropriately manages the chiropractic industry, consumers, chiropractors and all of those involved." He said the governor did not mean to suggest the board should represent chiropractor interests.

But some critics fear Schwarzenegger's chiropractic board has shifted away from protecting consumers. Paul Bishop, a 34-year employee of the state attorney general's office who has been working part time as a counsel for the board, said Schwarzenegger doesn't understand its role.

Schwarzenegger's appointees "obviously want to broaden the scope of chiropractic," Bishop said, even though "they just don't have the authority."

Tyler "definitely feels chiropractors are getting the short end of the stick, and it's a big conspiracy on the part of the medical association to keep them down," Bishop said.

Ed Cremata, a chiropractor who attended board meetings and took part in board debates, had nothing but praise for the current board.

"These are the best appointments and the most well-rounded appointments I've seen," Cremata said.

Schwarzenegger's six current appointees include a Democrat, as well as the governor's fellow Republicans. And it includes chiropractors from across the spectrum, from those who believe in mixing chiropractic with other techniques, to those who believe purely in spinal manipulation.

Besides being a chiropractor, Tyler, the board chairman, has served as a writer for bodybuilding and chiropractic magazines.

In the 1991 Dynamic Chiropractic column, he challenged chiropractic critics by arguing that modern medicine is no more scientifically sound.

After writing that chiropractic can improve internal organ function, Tyler wrote, "With that I can see some researchers throwing up their hands in horror shouting, 'It can't be proved.' True -- but then virtually nothing can be proved anyway. It's been said that just about 90 percent of what medicine does can't be proven but that doesn't stop them from dispensing all those weird chemical formulas they don't understand to their patients."

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Posted on Fri, Mar. 09, 2007 email this print this

Chiropractic board firings inflame critics

Ex-member accuses governor's appointees of conducting a 'coup'

ASSOCIATED PRESS

SACRAMENTO - A state regulatory board appointed by Gov. Arnold Schwarzenegger abruptly fired its executive director, tried to oust the deputy attorney general who serves as its lawyer and endorsed a possibly illegal chiropractic procedure.

A former member described the Board of Chiropractic Examiners' actions as a "coup." The deputy attorney general who was the target of board members' ire called the panel "lawless," the Sacramento Bee reported Thursday.

Five California Highway Patrol officers were called in to keep the peace when the board met March 1 and fired its executive director, Catherine Hayes.

The panel's chairman, Richard Tyler, a Rocklin chiropractor and the governor's mentor when he was a fledgling body builder, took over as acting executive director. Tyler had criticized Hayes for saying there was no scientific evidence that chiropractors can cure earaches.

The Bee said Hayes was supposed to be given written notice 24 hours before the meeting that disciplinary action would be taken against her and giving her the option of having a public hearing instead of a closed one.

Hayes' employment status wasn't on the board's agenda last week, the newspaper said.

Board members also tried to keep deputy attorney general Jana Tuton from attending a closed board session. They said they wanted to be represented by Shawn Steele, a former state Republican Party chairman and private attorney who specializes in defending chiropractors.

Barbara Stanfield, a former board member who attended the March 1 meeting, told the Bee that a shouting match erupted when Tuton refused to leave.

"It was a coup," Stanfield said. "They said, 'This is what we're going to do,' and they did it."

She said Schwarzenegger's appointees to the board have made it clear they want to curtail what they consider to be excessive regulation of chiropractors.

In a letter to Hayes last month, Tuton, the deputy attorney general, said the "prevailing problem with the board can be summarized in one word: lawless."

Schwarzenegger has appointed all six members of the board, including former body builder and workout partner Franco Columbu. One position is vacant.

After firing Hayes, the board voted to license chiropractors from a Florida college even though the school did not have an active application on file.

The board also passed a resolution contending that a controversial technique known as "manipulation under anesthesia" was within chiropractors' scope of practice.

The state Office of Administrative Law rejected regulations adopted by the board in 2005 that would have allowed chiropractors to use that method under specified conditions.

The San Joaquin County District Attorney's Office is prosecuting a case in which chiropractors are charged with unlicensed practice of medicine and insurance fraud related to use of manipulation under anesthesia.

State Sen. Mark Ridley-Thomas, the chairman of the Senate Business, Professions and Economic Committee, said it was "quite likely" that he would hold a hearing about the board's conduct.

The Los Angeles Democrat said he was awaiting a report from the Attorney General's Office on the board's actions.

"I just hope that the board has not behaved in a way that they have caused more problems than they have settled," he told the Associated Press. "Their job is to act in the interest of consumers. If they have done otherwise, it is clearly a problem."

Nathan Barankin, a spokesman for the Attorney General's Office, would not say whether his office was investigating the board's conduct.

He said the Attorney General's Office remained as the board's legal representative even though board members had requested that Tuton be replaced. He said that hadn't happened "as yet."

Schwarzenegger said he had "no idea" if the board had acted inappropriately.

Hayes and several other chiropractors on the board did not return telephone calls from the Associated Press seeking comment.

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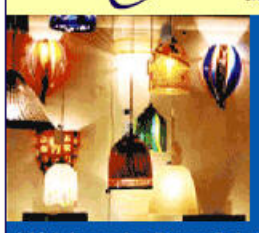

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[March 08, 2007]

Chaos on chiropractic board: The governor's appointees -- including ex-bodybuilding chums -- accused of 'coup.'

(Sacramento Bee, The (CA) (KRT) Via Thomson Dialog NewsEdge) Mar. 8--Gov. Arnold Schwarzenegger has handed control of the obscure Board of Chiropractic Examiners to appointees, including two friends from his bodybuilding days, who fired the executive director, ejected a deputy attorney general from a meeting and took other controversial actions in what a critic described as a "coup."

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The board, created in 1922 to protect consumers from incompetence and fraud, has become so mired in controversy that at a meeting last week, five California Highway Patrol officers were called in to keep the peace.

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"It was a coup," said former board member Barbara Stanfield, who attended the March 1 meeting. "They said, 'This is what we're going to do,' and they did it."

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Stanfield said Schwarzenegger appointees to the board, including two-time Mr. Olympia Franco Columbu, have made clear in public meetings that they want to rein in what they see as excessive regulation of chiropractors.

Schwarzenegger spokesman Aaron McLear, asked whether the governor endorses recent actions by the board, said "the board operates in an independent manner."

"Everybody he has appointed to the board is eminently qualified to serve the people of California," McLear said.

After the firing of Executive Director Catherine Hayes last week, newly elected board chairman Richard Tyler took over as "interim" executive director -- a highly unusual dual role as an administrator and member of a state board.

At the same meeting, the board endorsed a controversial chiropractic technique that is at the heart of a criminal prosecution in San Joaquin County. And it agreed to certify a Florida chiropractic college, despite the staff's warnings that the college did not have an active application before the board.

"The prevailing problem with the Board can be summarized in one word: lawless," Deputy Attorney General Jana Tuton wrote in a Feb. 8 letter to Hayes obtained by The Bee.

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Schwarzenegger has credited Tyler with helping to launch him into stardom as a young bodybuilder. Tyler, an editor working for bodybuilding entrepreneur Joe Weider, picked up Schwarzenegger from the airport when he first arrived in California in 1968, according to an article Schwarzenegger wrote for Flex magazine.

Schwarzenegger said Tyler then promoted his early bodybuilding career, "helping to establish me as a rising star and increasing my marketability and, thus, my business opportunities."

Tyler, 74, received his chiropractic license in 1969, according to state records. Schwarzenegger appointed him to the board in August 2004. Tyler did not respond to phone messages left at his Rocklin chiropractic office and his home, or to an e-mail.

Schwarzenegger appointed Columbu, another friend who was key to his early bodybuilding career, in February 2006. Columbu, who got his chiropractic license in 1977, did not respond to phone calls.

Columbu and Schwarzenegger met at a 1965 bodybuilding competition in Munich, Germany, according to Flex magazine. The two friends trained together in later years and were famously featured in the opening shot of the 1977 film "Pumping Iron," working on their posing skills at a ballet studio.

Columbu served as best man in Schwarzenegger's 1986 wedding to first lady Maria Shriver. The 65-year-old Italian native also has appeared in several Schwarzenegger films, including "The Terminator" and "Conan the Barbarian."

Schwarzenegger appointed retired Judge James Duvaras to the board in June 2005. This year, he appointed chiropractors Hugh Lubkin and Frederick Lerner, and James Conran, former director of the Department of Consumer Affairs.

Open Source CRM
Predictive Dialer
Quality Monitoring
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Speech Applications and Solutions
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Speech Technologies
Virtual Contact Center
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Workforce Management
Workforce Optimization
IPTV
IPTV
Communities
IP Communications
VoIP for SMB
VoIP Services
Contact Center Research
Internet Communications
Open Source PBX
Other TMCnet Sites
Alternative Power
Biometritech
Communications Solutions
Consumer Electronics
Planet PDA
Wifi Revolution

When Schwarzenegger entered office in 2003, he was hailed by chiropractors as a pro-industry governor by industry magazine Dynamic Chiropractic.

Columbu told the magazine just before the 2003 recall that "Arnold is a very strong supporter of chiropractic, because over the years he has come to understand its benefits from several perspectives."

Columbu also said that once Schwarzenegger was elected, chiropractors would be able to show the benefits of chiropractic medicine so that "we will gain something very special -- insurance will cover more chiropractic."

When voters removed Gov. Gray Davis and elected Schwarzenegger in 2003's recall, Dynamic Chiropractic stated in an editorial, "Schwarzenegger's election (and Davis' removal) should bring a long-awaited, collective sigh of relief."

In 1999, Schwarzenegger received an honorary degree from Cleveland Chiropractic College, the same school Columbu attended. According to Dynamic Chiropractic, Schwarzenegger at the time said, "People who don't believe in chiropractic always ask me about it. I have now become like a spokesperson for chiropractic."

Schwarzenegger showed his support for the chiropractic community as recently as Saturday. He spoke at an International Chiropractors Association conference in Columbus, Ohio, that coincided with the Arnold Sports Festival that bears Schwarzenegger's name.

Another player in the recent controversy at the Board of Chiropractic Examiners is Shawn Steel, an attorney who

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specializes in defending chiropractors, who was chairman of the state Republican Party during the 2003 recall election.

The board has said it wants Steel to be its legal representative instead of the attorney general's office, former board member Stanfield said.

State law requires the attorney general's office to represent boards.

At the meeting last week, Deputy Attorney General Jana Tuton refused the board's demand that she leave when they went into closed session.

"That's when Shawn Steel stood up, and there was a shouting match," Stanfield said. Steel did not respond to phone calls seeking comment.

Later, Stanfield said, five CHP officers arrived. Two stood behind Hayes as board member Duvaras handed her a notice of termination.

State open meetings law requires employees subject to discipline to be given written notice 24 hours before the meeting of their right to have a public hearing rather than a closed session. Hayes' employment by the board was not listed on the agenda for the Thursday meeting.

The dismissal follows a tense confrontation Tyler had with Hayes and Tuton, both of whom declined to comment for this story, at the board's December meeting.

Tyler insisted that he has cured earaches in children by adjusting the atlas, the vertebra closest to the head, and using homeopathic remedies.

He then took Hayes to task for signing a pending review of a case stating that "no forensic or scientific evidence" supports claims that chiropractic and homeopathic remedies are helpful in curing earaches, adding that there is more than 100 years of proof.

After Hayes' firing, the board took up a couple of controversial measures that have been on its plate for months.

It voted to license chiropractors who graduated from Palmer College of Chiropractic Florida, despite the staff's warning that the college did not have an active application before the board, and backdated the approval to Dec. 1, 2005.

A timeline put together by the staff said that Palmer did apply in 2005, but then withdrew the application a year later. A few months after that, the Florida college sent a letter trying to reactivate its application but did not fill out a new form, according to the timeline. As recently as November, a staff counsel sent Palmer a letter saying that a new application had to be submitted.

Board member Duvaras argued at the board's December meeting that there was no need for the college to submit another application, according to the minutes from that meeting.

"Judge Duvaras stated that he feels the application for the college has been stonewalled for over 18 to 20 months," the minutes state. Duvaras did not respond to a phone call seeking comment.

The other controversial topic the board tackled involves a technique known as "manipulation under anesthesia," or MUA, in which chiropractors team up with medical doctors to work on patients under anesthesia.

In 2005, the Office of Administrative Law, which oversees the making of state regulations, rejected a rule proposed by the Board of Chiropractic Examiners that would have allowed chiropractors to perform MUAs under specified conditions.

Some chiropractors say the technique is allowed under the current "scope of practice." But J.C. Weydert, a San Joaquin County prosecutor, said state law clearly states that chiropractors cannot perform MUA procedures.

He suggested the board would not have pursued a new regulation through the Office of Administrative Law if MUAs were already legal. He cited a 2005 appellate court decision that said the state's 1922 initiative prevents chiropractors from engaging in procedures that were not taught in chiropractic schools as of that time.

Weydert is prosecuting a case in which chiropractors are charged with unlicensed practice of medicine and other counts of insurance fraud related to MUA.

The board last week approved a resolution supporting MUAs as part of the chiropractor's "scope of practice."

"We upheld the long-term opinion of the board that it's within the scope of practice for chiropractors," new board member Lerner said. "MUA has been done for decades."

The state Senate Committee on Business, Professions and Economic Development has inquired about the meeting and plans to review a forthcoming state attorney general's report, said the committee's chairman, Sen. Mark Ridley-Thomas, D-Los Angeles.

"We can't just have the specter of impropriety at this level," Ridley-Thomas said.

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Discussions:

Stanfield iced
Post by Nemo on Mar 8, 2007, 2:21pm

http://www.sacbee.com/111/story/134491.html

Chaos on chiropractic board
The governor's appointees -- including ex-bodybuilding chums -- accused of 'coup.'By John Hill and Kevin Yamamura - Bee Capitol Bureau
Last Updated 9:16 am PST Thursday, March 8, 2007
Story appeared in MAIN NEWS section, Page A1

Gov. Arnold Schwarzenegger has handed control of the obscure Board of Chiropractic Examiners to appointees, including two friends from his bodybuilding days, who fired the executive director, ejected a deputy attorney general from a meeting and took other controversial actions in what a critic described as a "coup."

The board, created in 1922 to protect consumers from incompetence and fraud, has become so mired in controversy that at a meeting last week, five California Highway Patrol officers were called in to keep the peace.

"It was a coup," said former board member Barbara Stanfield, who attended the March 1 meeting. "They said, 'This is what we're going to do,' and they did it."

Stanfield said Schwarzenegger appointees to the board, including two-time Mr. Olympia Franco Columbu, have made clear in public meetings that they want to rein in what they see as excessive regulation of chiropractors.

Schwarzenegger spokesman Aaron McLear, asked whether the governor endorses recent actions by the board, said "the board operates in an independent manner."

"Everybody he has appointed to the board is eminently qualified to serve the people of California," McLear said.

After the firing of Executive Director Catherine Hayes last week, newly elected board chairman Richard Tyler took over as "interim" executive director -- a highly unusual dual role as an administrator and member of a state board.

At the same meeting, the board endorsed a controversial chiropractic technique that is at the heart of a criminal prosecution in San Joaquin County. And it agreed to certify a Florida chiropractic college, despite the staff's warnings that the college did not have an active application before the board.

"The prevailing problem with the Board can be summarized in one word: lawless," Deputy Attorney General Jana Tuton wrote in a Feb. 8 letter to Hayes obtained by The Bee.

Schwarzenegger has credited Tyler with helping to launch him into stardom as a young bodybuilder. Tyler, an editor working for bodybuilding entrepreneur Joe Weider, picked up Schwarzenegger from the airport when he first arrived in California in 1968, according to an article Schwarzenegger wrote for Flex magazine.

[snip]

Re: Stanfield iced
Post by Nemo on Mar 8, 2007, 5:05pm

One typical dynamic is that the people (i.e. state boards, FCLB, NBCE, etc.) who offer the standard bull$hit (i.e. subluxation theory) look down upon the those offering more exotic bullshit.

So while Stanfield took a stand against exotic bullshit, she still supported the bull$hit found on the NBCE chapter 9 bulletin.

http://www.nbce.org/pdfs/chapter_9.pdf

Re: Stanfield iced
Post by smi2le on Mar 8, 2007, 7:29pm

This story is huge and unfolding literally by the hour. Two hours ago the Governator:

- tried (and failed) to distance himself from the state chiro board.

- claimed the board exists to protect chiros from the public (the language in the initiative that established the board states exactly the opposite).

- refused to say if his proposed state health insurance plan includes coverage for chiropractic services.

This is extremely significant for two reasons:

1) the inclusion of chiro in Workers Comp and MediCal virtually bankrupted both of these programs in California and any hint that Arnold's health insurance plan will include coverage of chiro will guarantee its defeat.

2) the Jim Black scandal in North Carolina, in which chiros were caught bribing a legislator to include chiro coverage in state programs, and the fact that the Governator has taken money from chiros in California, is now being connected. You can bet there will be an investigation of any possible "chiro for cash" deal.

Of course the state chiro board has gone from obscurity to laughing stock status but that is to be expected. What is really interesting however, is the complete erosion of Arnold's credibility almost overnight, as a result of these "chiro clown's" stupidity and irresponsibility! But then they are chiropractors so what should we expect..

Quote:

Board 'represents the chiropractors,' governor says
By Kevin Yamamura and Andy Furillo - Bee Capitol Bureau
Published 1:20 pm PST Thursday, March 8, 2007
Gov. Arnold Schwarzenegger tried to distance himself Thursday from his own appointees to the state Board of Chiropractic Examiners, including two of his earliest bodybuilding friends, yet he suggested the consumer-protection board should represent the interests of its practitioners after the panel took questionable actions last week.

"They run their board by themselves, independent of us," Schwarzenegger said after touring the San Joaquin County Jail in French Camp. "We don't give them directions. What is important is that the chiropractic board represents the chiropractors. And each board represents their profession."

The board, created in 1922 by voters to protect consumers, fired its executive director without warning, ejected a deputy attorney general from a meeting, endorsed a controversial chiropractic technique that involves use of anesthesia and certified a Florida chiropractic college that did not have an active application in place. The board's meeting got so out of hand that five California Highway Patrol officers were called in to keep the peace.

At the center of the action were two of Schwarzenegger's earliest friends from bodybuilding who now practice as chiropractors. Richard Tyler, who picked up Schwarzenegger at the airport when he first arrived in California in 1968, led the board for the first time as its chairman at the March 1 meeting. The board also includes Franco Columbu, a chiropractor and two-time Mr. Olympia who was best man in Schwarzenegger's wedding to First Lady Maria Shriver. Schwarzenegger appointed Tyler in 2004 and Columbu in 2006 to four-year terms.

"As you know, it's an independent board," Schwarzenegger said. "I haven't given them any directions. Each of those boards sort out their own problems. This is something that's up to the board."

Some critics fear that Schwarzenegger's chiropractic board has shifted away from protecting consumers to the benefit of chiropractors. Former board member Barbara Stanfield, who attended the March 1 meeting, said Schwarzenegger appointees had made it clear in previous meetings that they wanted to rein in what they considered excessive regulation of chiropractors.

Before the 2003 recall election in which Schwarzenegger became governor, Columbu told an industry magazine, Dynamic Chiropractic, that Schwarzenegger might be more receptive to expanding insurance coverage to chiropractors if he won office. The governor on Saturday addressed a group of chiropractors during his Arnold Sports Festival and spent 20 minutes posing for personal photos with chiropractors in Columbus, Ohio.

Asked Thursday whether he wants to include more insurance coverage for chiropractic under his health care plan or through other state proposals, Schwarzenegger said, "I think improvement is always good."

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Re: Stanfield iced
Post by Marley on Mar 8, 2007, 7:47pm

This is extremely interesting guys, please keep the news coming.

Re: Stanfield iced
Post by Nemo on Mar 9, 2007, 1:01am

Its seems to me that the way to put the screws to the CA board is to author a Bill to bring it back under the DCA. How dfeasible this is, I don't know. Lawman?

http://findarticles.com/p/articles/mi_qa3987/is_200204/ai_n9048213

Quote:

On January 7, 2002, Senator Liz Figueroa (a fellow democratic of Gov. Davis) introduced California Senate Bill 1244, which specifically points to Davis' inability to appoint members to the CBCE, and would empower the California Senate to appoint members should the governor continue to fail to act.

It appears to be no coincidence that the other health care boards previous mentioned are all under the umbrella of the California Department of Consumer Affairs (DCA). The CBCE used to be under the DCA, but moved out on its own when the DCA tried to restrict the CBCE's communication with the chiropractic profession. The CBCE had to file a lawsuit to leave the DCA at that time.

The DCA attempted to bring the CBCE under its authority last year in a series of political maneuverings that ultimately failed. The DCA is apparently so anxious to pull the CBCE under its control that it built a web page for the CBCE on the DCA website (http://www.dca.ca.gov/r_r/ chiropra.htm), which was subsequently taken down while this article was being written. The page presented the CBCE under the DCA banner, along with general information about the CBCE. The web page also included a functioning "Citizens Complaint Form."

This state of affairs caused many chiropractic leaders to speculate about the motives of-Governor Davis.

* An informal poll suggests that there are no known doctors of chiropractic who have given significant amounts of money to Davis' political campaign. Could Davis' actions be in retaliation for lack of, monetary support?

Is it possible that the elimination of the CBCE members is setting the stage for a massive appointment of an entirely new board, one willing to place the CBCE under the thumb of the California Department of Consumer Affairs? If so, is it Governor Davis' ultimate intent to change chiropractic's scope of practice?

Here comes the investigations
Post by smi2le on Mar 9, 2007, 7:37am

Less than 24 hours after this story first broke, at least two investigations

Fri, Mar. 09, 2007

Chiropractic board firings inflame critics
Ex-member accuses governor's appointees of conducting a 'coup'

ASSOCIATED PRESS

SACRAMENTO - A state regulatory board appointed by Gov. Arnold Schwarzenegger abruptly fired its executive director, tried to oust the deputy attorney general who serves as its lawyer and endorsed a possibly illegal chiropractic procedure.

A former member described the Board of Chiropractic Examiners' actions as a "coup." The deputy attorney general who was the target of board members' ire called the panel "lawless," the Sacramento Bee reported Thursday.

Five California Highway Patrol officers were called in to keep the peace when the board met March 1 and fired its executive director, Catherine Hayes.

The panel's chairman, Richard Tyler, a Rocklin chiropractor and the governor's mentor when he was a fledgling body builder, took over as acting executive director. **Tyler had criticized Hayes for saying there was no scientific evidence that chiropractors can cure earaches.**

The Bee said Hayes was supposed to be given written notice 24 hours before the meeting that disciplinary action would be taken against her and giving her the option of having a public hearing instead of a closed one.

Hayes' employment status wasn't on the board's agenda last week, the newspaper said.

Board members also tried to keep deputy attorney general Jana Tuton from attending a closed board session. They said they wanted to be represented by Shawn Steele, a former state Republican Party chairman and private attorney who specializes in defending chiropractors.

Barbara Stanfield, a former board member who attended the March 1 meeting, told the Bee that a shouting match erupted when Tuton refused to leave.

"It was a coup," Stanfield said. "They said, 'This is what we're going to do,' and they did it."

She said Schwarzenegger's appointees to the board have made it clear they want to curtail what they consider to be excessive regulation of chiropractors.

In a letter to Hayes last month, Tuton, the deputy attorney general, said the "prevailing problem with the board can be summarized in one word: lawless."

Schwarzenegger has appointed all six members of the board, including former body builder and workout partner Franco Columbu. One position is vacant.

After firing Hayes, the board voted to license chiropractors from a Florida college even though the school did not have an active application on file.

The board also passed a resolution contending that a controversial technique known as "manipulation under anesthesia" was within chiropractors' scope of practice.

The state Office of Administrative Law rejected regulations adopted by the board in 2005 that would have allowed chiropractors to use that method under specified conditions.

The San Joaquin County District Attorney's Office is prosecuting a case in which chiropractors are charged with unlicensed practice of medicine and insurance fraud related to use of manipulation under anesthesia.

State Sen. Mark Ridley-Thomas, the chairman of the Senate Business, Professions and Economic Committee, said it was "quite likely" that he would hold a hearing about the board's conduct.

The Los Angeles Democrat said he was awaiting a report from the Attorney General's Office on the board's actions.

"I just hope that the board has not behaved in a way that they have caused more problems than they have settled," he told the Associated Press. **"Their job is to act in the interest of consumers. If they have done otherwise, it is clearly a problem."**

Nathan Barankin, a spokesman for the Attorney General's Office, would not say whether his office was investigating the board's conduct.

He said the Attorney General's Office remained as the board's legal representative even though board members had requested that Tuton be replaced. He said that hadn't happened "as yet."

Schwarzenegger said he had "no idea" if the board had acted inappropriately.

Hayes and several other chiropractors on the board did not return telephone calls from the Associated Press seeking comment.

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Re: Stanfield iced
Post by grimey on Mar 9, 2007, 10:12am

Dark days ahead for chiros in CA.

Clearly the guv and his cronies minunderstand the purpose of a state board, it's not a professional advocacy organization, it's a consumer protection agency.

The wheels are coming off fast, boys... hold on to your hats.

Re: Stanfield iced
Post by grimey on Mar 9, 2007, 10:13am

"Tyler had criticized Hayes for saying there was no scientific evidence that chiropractors can cure earaches."

That's funny... "how dare you point out my open fly!"

Re: Stanfield iced
Post by grimey on Mar 9, 2007, 10:24am

Although Nemo, I do have to opine, this is really just one set of goofballs replacing another set of goofballs... you know, a "meet the new boss, same as the old boss" kinda thing...

However, it has brought attention to the chiro board in CA... methinks they aren't going to like the attention they receive after this. Let's see, try to kick the AG attorney out of the meeting, publicly denounce a former board member for criticizing your favorite brand of quackery... oh and let's not forget that the new bosses are cronies of the guv. ... hmmm ... stories of chiro offices serving as brothels... chiro health fraud stories almost daily... bribing of public officials...

Yeah, really makes one wonder why chiros are so low on the list of public trust. Must be an AMA consipracy...

Re: Stanfield iced
Post by Nemo on Mar 9, 2007, 1:08pm

Quote:
> Although Nemo, I do have to opine, this is really just one set of goofballs replacing another set of goofballs... you know, a "meet the new boss, same as the old boss" kinda thing...

This was basically my point, Grimey. Some quacks are less extravagant than others but they're still quacks.

Quote:
> The panel's chairman, Richard Tyler, a Rocklin chiropractor and the governor's mentor when he was a fledgling body builder, took over as acting executive director. Tyler had criticized Hayes for saying there was no scientific evidence that chiropractors can cure earaches.

This ires me. Damn near every single chiro group supports treating earaches with chiropractic including the NBCE of whom Stanfield is gainfully employed and has hired on to test those wanting to obtain a CA license. Really, why don't their heads explode from all the contradiction.

Rosner, who heads the premier chiropractic research group (FCER)- you know, the one everyone throws money at- supports this treatment too.....

Re: Stanfield iced
Post by lawman on Mar 9, 2007, 4:05pm

looks like the fox is guarding the henhouse to me.....

Re: Stanfield iced
Post by smi2le on Mar 9, 2007, 9:18pm

Quote:
> The mission of the Board of Chiropractic Examiners is to:
>
> Protect Californians from fraudulent or incompetent practice of chiropractic.
>
> Examine applicants for licensure in order to evaluate entry level competence.
>
> Enforce the Chiropractic Initiative Act and Regulations Relating to the Practice of Chiropractic.

Opening page California Board of Chiropractic Examiners

Quote:
> the chiropractic board represents the chiropractors.

Governor Schwarzenegger arch 7, 2007

Apparently investigators in California, and a number of other states, are now "following the money', specifically "campaign contributions" from chiros to politicians, for the same reason insurance investigators red flag claims from chiros i.e. because there appears to be a very high correlation between politicians who take money from chiros and politicians who are crooked. Campaign contrbutions from chiropractors have suddenly become just as unwelcome as contributions from Jack Abramoff, and just as suspicious.

Incidentally, what is happening with the Schwarzenegger petition

---

What will Arnold do?
Post by smi2le on Mar 9, 2007, 10:20pm

Politicians dump chiropractor dollars

Most Popular Stories
Mark Johnson, The Charlotte Observer
RALEIGH – There's nothing like a scandal to make politicians act against instinct and get rid of campaign money instead of collecting it.
Gov. Mike Easley and three more of the state's highest-ranking elected officials are refunding or giving to charity a total of $58,000, contributed to their campaigns by the three chiropractors named in the criminal cases against former House Speaker Jim Black.

The refund and charity checks were being cut within 24 hours of state court testimony identifying the chiropractors, which turned the campaign donations into tainted money.

Lt. Gov. Beverly Perdue is sending money back to the chiropractor who donated it, while Easley, Attorney General Roy Cooper and Senate President Pro Tem Marc Basnight are giving their chiropractor money to charitable programs.

The scandal rippled even further as one of Black's most loyal allies in the House of Representatives said he's taking $8,000 he received from Black's campaign and giving it to charity.

Black pleaded guilty in federal court last week to accepting illegal payments from three chiropractors who sought legislation favorable to their profession. They were not identified, however, until Black's guilty plea in state court Tuesday to a bribery charge for buying a legislator's vote and an obstruction of justice charge for not reporting the chiropractors' envelopes of cash.

Joseph Cheshire, a Raleigh lawyer representing Fletcher Keith and Thomas Brown, said the two Charlotte chiropractors named in court testimony didn't know they were breaking the law at the time.

"When they realized that the monies that were given to the former Speaker had not been properly accounted for, they came forward and were completely forthcoming with both state and federal authorities," Cheshire said in a prepared statement Wednesday. "They are saddened that they have unintentionally played a part in this process that has hurt so many people and institutions."

Keith, Brown and the third chiropractor, Steve Willen of Greensboro, have given more than $127,000 to political candidates since 1997.

A lawyer for Willen said his client, too, did not know the payments were illegal and cooperated completely.

Easley had received $20,060 from the trio since 1994.

"The money will be sent to an assistance program for the needy," said Mac McCorkle, Easley's political consultant. He said the specific program has not yet been identified.

Lt. Gov. Beverly Perdue is returning $5,000 to Keith. Attorney General Roy Cooper is sending the $8,000 he received from the chiropractors in 2003 and 2004 to the N.C. Victims Assistance Network, a nonprofit providing aid to crime victims, especially violent crime, across the state.

Senate President Pro Tem Marc Basnight collected $25,000 from the chiropractors, which he also plans to give to charity.

In a sign of how far the post-scandal cleansing may go, Rep. Jim Harrell, who Black at one point touted as a contender for lieutenant governor, said he was taking $8,000 that Black contributed to his campaign and giving it to the Surry Home for Children.

Re: Stanfield iced
Post by Nemo on Mar 10, 2007, 2:19am

March 9th news from Sacramento Bee:

http://www.sacbee.com/391/story/135212.html

Quote:
> Tyler, 74, has previously advocated for chiropractic as "more than just a tool to move bones" and as a way to impact "the function of the internal organs," according to a 1991 article he wrote for industry magazine Dynamic Chiropractic.

What's the big deal? They all have this belief!

Quote:
> But some critics fear Schwarzenegger's chiropractic board has shifted away from protecting consumers. Paul Bishop, a 34-year employee of the state attorney general's office who has been working part time as a counsel for the board, said Schwarzenegger doesn't understand its role.

"Some critics" don't realize this is what's being taught in the schools. "Some critics" don't realize that the FCLB and NBCE have these beliefs too.

Quote:
> Ed Cremata, a chiropractor who attended board meetings and took part in board debates, had nothing but praise for the current board.
>
> "These are the best appointments and the most well-rounded appointments I've seen," Cremata said.

Dr Cremata will go places in this field.

Quote:
> In the 1991 Dynamic Chiropractic column, he challenged chiropractic critics by arguing that modern medicine is no more scientifically sound.
>
> After writing that chiropractic can improve internal organ function, Tyler wrote, "With that I can see some researchers throwing up their hands in horror shouting, 'It can't be proved.' True -- but then virtually nothing can be proved anyway. It's been said that just about 90 percent of what medicine does can't be proven but that doesn't stop them from dispensing all those weird chemical formulas they don't understand to their patients."

I was at the mercy of these people....

Quote:
> Gov. Arnold Schwarzenegger drew immediate criticism Thursday for declaring that the state's Board of Chiropractic Examiners should represent chiropractors despite the panel's mission statement of protecting the public.

Awww smi2le! I think Arnold understands chiropractic better than anyone, HeHe! He just didn't have the savoir-faire to keep quiet about it. he knows how the game is played!

Quote:

> In a December board meeting, Tyler said he agreed with one chiropractor who advertised that "vaccines are not proven to be effect or safe and that they weaken the immune system." He did not return calls from The Bee on Thursday.

Was that chiropractor Peter Ferguson, by chance, who offers links to anti-vaccination websites?

Re: Stanfield iced
Post by Nemo on Mar 10, 2007, 2:42am

Sac Bee March 8th:

http://www.sacbee.com/111/story/134491-p2.html

Quote:

> He suggested the board would not have pursued a new regulation through the Office of Administrative Law if MUAs were already legal. **He cited a 2005 appellate court decision that said the state's 1922 initiative prevents chiropractors from engaging in procedures that were not taught in chiropractic schools as of that time**.

Hmmm...."that time"?

Quote:

> Weydert is prosecuting a case in which chiropractors are charged with unlicensed practice of medicine and other counts of insurance fraud related to MUA.
>
> The board last week approved a resolution supporting MUAs as part of the chiropractor's "scope of practice."
>
> "We upheld the long-term opinion of the board that it's within the scope of practice for chiropractors," new board member Lerner said. "MUA has been done for decades."

This is a common theme. The answer to the question "What ought a chiropractor do?" is always "What a chiropractor does".
We see this elsewhere as the NBCE bases its test on the patient conditions treated found in its Chapter 9 of the Job Analysis Bulletin.

Quote:

> "We can't just have the specter of impropriety at this level," Ridley-Thomas said.

Obviously, Thomas has never been to Chiroville-USA where this is normative.

Editorial March 10 Sacramento Bee
Post by smi2le on Mar 10, 2007, 11:25am

Editorial:

Adjustment needed
Governor's pals make chiro board a mess
Published 12:00 am PST Saturday, March 10, 2007
Story appeared in EDITORIALS section, Page B6

Gov. Arnold Schwarzenegger says he can't be bought. But he sure as heck can be manipulated. That's the obvious conclusion from a story Thursday in The Bee that documented how two of **Schwarzenegger's friends, along with others the governor has appointed to the Board of Chiropractic Examiners, have turned this regulatory board into a laughingstock.**

This board, which serves an important function in overseeing the chiropractic profession and protecting consumers, **is in chaos**, as John Hill and Kevin Yamamura reported. In recent years, **the governor has stacked the board** with self-professed opponents of excessive regulation, including two of his close friends from his muscleman days. They, in turn, have fired the board's executive director, ejected a deputy attorney general from a meeting and have taken other actions that may have violated the state's open meeting law.

The governor tried to distance himself from the controversy Thursday. "They run their board by themselves, independent of us," he said. The clear implication is that Schwarzenegger feels manipulated -- as he should -- but doesn't want to criticize them in public.

Schwarzenegger is extremely close to two of these men. One is chiropractor Richard Tyler, who the governor credits with picking him up at the airport when he first arrived in California and helping him build his lucrative bodybuilding career. The other is two-time Mr. Olympia Franco Columbu, a chiropractor who served as Schwarzenegger's best man when the governor married Maria Shriver in 1986.

While every governor is known to appoint friends and cronies to state boards and commissions, Schwarzenegger has put himself in an enormously awkward position by appointing two such close friends to a board that directly regulates the industry for which they work.

If he weren't so indebted to these two friends, he'd be in a better position to make them run their board under the rule of law. Instead, **he has sat by while his appointees engineered the dismissal of the board's executive director (with five Highway Patrol officers brought in to maintain order) without proper public notification, and authorized a chiropractic procedure that is the subject of a criminal prosecution in San Joaquin County.**

"Lawless" is how Deputy Attorney General Jana Tuton described the board's actions in a memo.

Similarly disturbing is Schwarzenegger's comment Thursday "that the chiropractic board represents the chiropractors. ... And each board represents their profession."

Sorry, Governor. The board was created by a 1922 initiative, largely to protect consumers. **As someone who has pegged so much of his career on ballot initiatives, he should know that.**

Arnold knew all about it!
Post by smi2le on Mar 10, 2007, 11:45am

E-mail warned of board chaos
Chiropractic panel director's memo didn't need immediate action, governor's aide says.
By John Hill and Kevin Yamamura - Bee Capitol Bureau
Last Updated 12:30 am PST Saturday, March 10, 2007

More than a week before Gov. Arnold Schwarzenegger's appointees on the Board of Chiropractic Examiners fired their executive director and took other controversial actions, the director warned the Governor's Office that the board was out of control and that the disarray would soon become public.

"After being with this Board for over a decade, I have never seen or experienced such malfeasance by a group of Board members," Catherine Hayes wrote to Nicole Rice, an appointments secretary at the Governor's Office, in an e-mail obtained by The Bee.

"Their lack of knowledge of civil service laws, governmental procedures and the role of the board member makes it impossible for me to carry out my duties as executive director. This type of activity would never be tolerated by a Board within any other governmental oversight agency."

The Governor's Office concedes that it was aware of the memo, but says that it contained nothing that warranted immediate action. "There are many boards, and all the memos we receive are taken seriously," said Schwarzenegger spokesman Aaron McLear. "However, this board is constitutionally independent. There was no direct proof of wrongdoing or malfeasance in the memo."

At a meeting nine days after Hayes' e-mail, the board fired her, ejected a deputy attorney general from the meeting, passed a resolution in support of a controversial chiropractic technique involving the use of anesthesia, and accredited a college despite staff warnings that it did not have an application on file.

As of that meeting, the board consisted entirely of Schwarzenegger appointees, including two cohorts from his bodybuilding days, Richard Tyler and Franco Columbu.

Tyler, who became chair and interim executive director at the March 1 meeting, picked up Schwarzenegger at the airport when he arrived in California in 1968, and is credited by the governor with helping to launch his career.

Schwarzenegger and Columbu, a two-time Mr. Olympia, trained together for years, and Columbu was the best man in Schwarzenegger's 1986 marriage to Maria Shriver. **A governor's spokesman said the two still talk twice a week,** but not about the chiropractic board.

After The Bee published a story about the controversy this week, Schwarzenegger responded that the board runs its own affairs without direction from the Governor's Office.

But Hayes, the former executive director, turned to the Governor's Office for help in dealing with what she saw as explosive problems developing at the board, whose mission is to safeguard the public against fraud and incompetence in the chiropractic industry.

She e-mailed Rice, a $98,000-a-year deputy appointments secretary to the governor, on Feb. 16 to ask about one of Schwarzenegger's new appointments to the board, Frederick Lerner.

Rice confirmed in an e-mail that Lerner had been appointed. Hayes responded that she learned about the appointment only when one of her secretaries got an e-mail from a friend who works in another state office. "My past experience with appointments is that I have always been notified prior to the appointment in order to eliminate the element of surprise," Hayes wrote.

Hayes also told Rice that she knew of several individuals who wanted to publicize recent turmoil at the board.Aconsumer advocacy group and lobbyist for the medical profession requested information about the March 1 meeting, presumably to monitor the growing disarray.

"This is the first time, to my knowledge, either of these groups has made this type of request," she wrote.

Schwarzenegger's handling of the board appointments maximized the influence of his appointees. According to the 1922 initiative that set up the Board of Chiropractic Examiners, board members may serve for a grace period of one year after their terms end, or until they are replaced. Several members have served through the entire grace period.

The term of board chair Barbara Stanfield, first appointed by then-Gov. Gray Davis, ran out this year. But rather than allowing her to continue into the grace period, the Governor's Office replaced her with Lerner, even though there was another vacancy on the board that Lerner could have filled. McLear said the Governor's Office often replaces Davis appointees when it has an opportunity.

In another sign of confusion at the board, the Department of Personnel Administration this week yanked the board's authority to handle personnel matters. The department took the action because the board's "existing staff does not have the necessary personnel management experience or background to fulfill" the personnel responsibilities, according to a letter dated Tuesday.

The board, like most state operations, won the authority to handle many personnel matters in 2005. **This is the first time that a state board or department had all its personnel powers stripped, said Debbie Endsley, spokeswoman for the Department of Personnel Administration.**

Endsley said she could not elaborate on why the board lost its personnel authority because it would violate the attorney-client confidentiality between the two offices.

About the writer:
The Bee's John Hill can be reached at (916) 326-5543 or jhill@sacbee.com.

Re: Stanfield iced
Post by Nemo on Mar 10, 2007, 3:59pm

Remember, there is no good guy here- they're all bad...all chiropractic monsters battling it out. Stanfield endorsed just as much chiropractic BS as the others with her support of the NBCE. If Stanfield were asked about "a Ferguson", "a Rada", or "a Willen" what do you think she would say?

Bring in the Cops! Schwarzenegger's Bodybuilder Appointees are Chiropractic Fanatics!

Who needs to watch "Conan the Barbarian" when there's the California Board of Chiropractic Examiners? The board, which includes two friends from Schwarzenegger's bodybuilding days, one of whom played a part in the film, has launched a coup. They've ousted the board's executive director and ejected their own lawyer, a deputy attorney general, from a meeting. The board is so mired in controversy, reports the *Sacramento Bee*, that five California Highway Patrol officers were called into a meeting last week to keep the peace.

The fracas centers around the regulation of California's chiropractics industry, which, second only to Hollywood and bodybuilding, is to Schwarzenegger as oil is to Bush. The Governator holds an honorary degree from Cleveland Chiropractic College. In 1999, the *Bee* reports, he granted an interview to a magazine called *Dynamic Chiropractic*, in which he said, "People who don't believe in chiropractic always ask me about it. I have now become like a spokesperson for chiropractic."

Schwarzenegger's chiropractic crusaders include Franco Columbu, a two-time Mr. Olympia and occasional actor, and Richard Tyler, the editor of a bodybuilding magazine who picked up Schwarzenegger from the airport when he first arrived in California in 1968, the *Bee* reported. Both men are also chiropractors, and have bristled at what they see as too many restrictions on the industry. They approved a resolution last week supporting a controversial chiropractic practice known as "manipulation under anesthesia," which was shot down in 2005 by the state's Office of Administrative Law and is the subject of lawsuits filed against chiropractors in the state for unlicensed practice of medicine.

At a meeting of the board in December, shortly before director Catherine Hayes was ousted and Tyler took over as "interim director" of the board, the Bee recounted that she clashed with Tyler over what chiropractors were capable of curing:

> Tyler insisted that he had cured earaches in children by adjusting the atlas, the vertebra closest to the head, and using homeopathic remedies.
>
> He then took Hayes to task for signing a pending review of a case stating that "no forensic or scientific evidence" supports claims that chiropractic and homeopathic remedies are helpful in curing earaches, adding that there is more than 100 years of proof.

The debate, though imbued with Californian flapdoodle, ultimately sounds reminiscent of the creationist textbook wars in Kansas. And the Lord said, be gone, earache! (and that'll be $19.95, in four easy installments!) Political Muscle, the Arnold-centric *LA Times* political blog, seems to agree that this whole scandal defies credulity. "There is nothing left to blog after that," they write. "Schwarzenegger has exceeded all expectations."

UPDATE: In a follow-up piece in the Bee yesterday afternoon, Schwarzenegger threw fuel on the flames. Though the board's website says it's supposed to "protect Californians from fraudulent or incompetent" practices, Schwarzenegger told the *Bee* that the board "represents the chiropractors." Ouch, my ears are hurting. I guess I need my atlas adjusted.

Posted by **Josh Harkinson** on 03/08/07 at 4:01 PM | E-mail | Print | Digg | de.licio.us | Reddit | Newsvine | Yahoo! MyWeb | StumbleUpon | Netscape | Google |

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RECENT ENTRIES
The Only Terrorist Attack KSM Didn't Confess to Has Now Been Solved
We Continue to Jab Iran With a Sharp Stick, Iran Gets Upset
Anti-War Protesters Arrested In Colorado Springs
Experts: We are NOT Fighting al Qaeda in Iraq to Avoid Fighting it Here
U.S. Attorney Firing May Be Connected to CIA Corruption Probe
"Don't Ask Don't Tell" Equals 4,000 Troops Lost Each Year
Right Wing Backs Terrorist When His Target is Ex-Prez Carter
FAA Backs Down: Reinstates Inspector Fired for Talking to MoJo
Breaking: Rumsfeld Underwent Heart Procedure
Mainstream Media Catching Up on KSM Doubts

Comments

Chiropractors get a bad rap by people who do not know them. In California we are very progressive and do not just rely upon conventional medicine because we are unconventional free thinkers who think outside of the box. Go vegetarian and organic.

Posted by: **Juliet Greenwald** on 03/09/07 at 11:07 AM

Post a comment

If you have a TypeKey identity, you can sign in to use it here.

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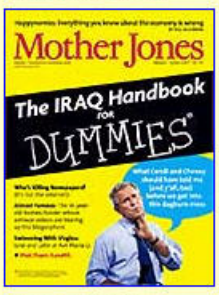

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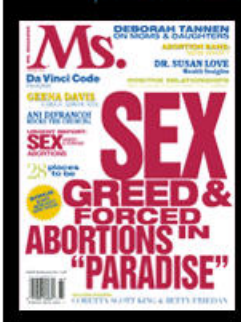

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BOARD OF CHIROPRACTIC EXAMINERS
NOTICE OF BOARD MEETING
Friday, March 23, 2007
2:00 p.m. to 5:00 p.m.
Department of Consumer Affairs
1625 N. Market Blvd., Suite S102
Sacramento, CA 95834

Agenda

Call to Order

Roll Call

Richard Tyler, D.C., Chair
Frederick Lerner, D.C., Vice-Chair
Francesco Columbu, D.C., Secretary
Hugh Lubkin, D.C.
Judge James Duvaras (Ret.), Public Member
Jim Conran, Public Member

CLOSED SESSION

Deliberation on Personnel Matters and Action on Personnel Decisions

Pursuant to California Government Code Section 11126 (a) (1)

A) Continued Employment of the Executive Director
B) Appointment of an Acting Executive Director (if necessary, depending on the action of Agenda Item A)

OPEN SESSION

C) Search for Executive Director (if necessary, depending on the action of Agenda Item A)

Adjournment

The Mission of the Board of Chiropractic Examiners is to 1) protect Californians from fraudulent or incompetent practice of chiropractic; 2) examine applicants for licensure in order to evaluate entry level competence; and, 3) enforce the Chiropractic Initiative Act and regulations relating to the practice of chiropractic.

Meetings of the Board of Chiropractic Examiners are open to the public except when specifically noticed otherwise in accordance with the Public Meetings Act. Time and order of agenda items are subject to change at the discretion of the Chairperson. The audience will be given appropriate opportunities to comment on any issue before the Board, but the Chair may apportion available time among those who wish to speak. The meeting may be cancelled without notice. For meeting verification or information call Marlene Valencia at (916) 263-5355 ext. 5363 or visit or website at www.chiro.ca.gov.

NOTICE: *The meeting is accessible to the physically disabled. A person who needs disability-related accommodations or modifications in order to participate in the meeting shall make a request no later than five working days before the meeting to the Board by contacting Marlene Valencia at (916) 263-5355 ext. 5363 or sending a written request to that person at the Board of Chiropractic Examiners, 2525 Natomas Park Drive, Suite 260, Sacramento, CA 95833. Requests for further information should be directed to Ms. Valencia at the same address and telephone number.*

Dynamic Chiropractic™

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Chiropractic's California Crisis

What's Happening and Who's Doing What to Rescue the Profession

Through a series of procedural missteps, the California Board of Chiropractic Examiners (BCE) has, at the very least, embarrassed Governor Schwarzenegger and, to some extent, the chiropractic profession. The board's intention to rid itself of a chiropractic consultant with serious conflicts of interests and ties to the insurance industry was more than justified. But the board failed to follow the appropriate process and now finds itself in the center of an attack on the California Chiropractic Act by several members of the California state legislature. The situation is complicated by the fact that the Attorney General's office has sided against the board's efforts to fire its own executive director and rid itself of the chiropractic consultant.

The Chiropractic Act is an initiative passed by the voters of California in 1922 to define the scope of chiropractic

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DC Chiropractic's California Crisis

Cont'd from page 1

practice and protect the chiropractic profession from constant assaults by the medical profession. As a voter initiative, the people of California passed a law that could not be tampered with by the state legislature. This was done deliberately, with the realization that politicians can occasionally be heavily influenced and even bought by medical, insurance and drug-company lobbyists.

State Assemblyman Mike Eng (D) and state Senator Mark Ridley-Thomas (D) have introduced similar bills[1] that if passed, would create initiatives which would bring the practice of chiropractic under the legislature, rather than keeping it independent, as the people of California intended in 1922. According to an article written by Eng,[2] these bills would:

- give the legislature the power to "modify, amend or repeal" the Chiropractic Act whenever it wishes (this means that the chiropractic scope of practice could be changed or abolished in a lobbying move by the medical, pharmaceutical or insurance lobbying groups);
- give bureaucrats (the Department of Consumer Affairs) the ultimate power to approve or disapprove the chiropractic board's choice of an executive director;
- give the legislature power to appoint two board members apart from the governor's appointments;
- require all gubernatorial appointments to the board to be approved by the state Senate; and
- allow the legislature to fire all board members.

Needless to say, this is some of the worst news the state's doctors of chiropractic have ever faced. This exposes the practice of chiropractic in California to constant attacks by overwhelmingly powerful medical, pharmaceutical and insurance lobbying groups. There is additional concern that erosion of the Chiropractic Act in California could be an archetype for similar attacks in other states.

California law is very different from most states with regard to chiropractic. Most state chiropractic licensing boards are overseen by a consumer affairs department, and most chiropractic practice laws are subject to change by the legislature. If California's position seems overly protective, it is by design. In 1946, the board passed a resolution to "subject itself to administration by the DEPARTMENT OF CONSUMER AFFAIRS (formerly the Department of Professional and Vocational Standards)." But on March 1, 1976, the board resolved:

1. That this BOARD revokes, rescinds, and cancels its prior action, under B S P Code Sec. 102, and now does remove itself, withdraw, and declare its independence from the DEPARTMENT OF CONSUMER AFFAIRS:

2. That this BOARD will at all times in the future maintain an entirely autonomous position,

free of control by the ATTORNEY GENERAL and the DEPARTMENT OF CONSUMER AFFAIRS or any other agency or department of the State of California;

3. That private counsel, previously retained by this BOARD, is by this resolution authorized to:

   a. bring suit against any appropriate state agency or agencies to enforce this BOARD's statutory power to select counsel and to decide his compensation, and

   b. to represent this BOARD in any appropriate action necessary to defend its autonomous position under the initiative measure of 1922.

This resolution was passed because "the BOARD OF MEDICAL EXAMINERS, DEPARTMENT OF CONSUMER AFFAIRS, and the ATTORNEY GENERAL, have, without pause, supported the partisan activities of the BOARD OF MEDICAL EXAMINERS, siding with that BOARD on every legal question, interpretation and contest between that BOARD and this, requiring this BOARD to retain private counsel to enforce its positions and the positions of Chiropractic practitioners generally."[3]

A similar situation took place in the 1980s when the California Medical Board sued the California Chiropractic Board, and the Attorney General's Office tried to represent the medical board against the chiropractic board. This was also the period during which the American Medical Association and other medical groups were found guilty of a 30-year conspiracy to contain and eliminate the chiropractic profession.

Some have suggested the medical and insurance lobbyists are not really involved in the introduction of these anti-chiropractic bills. A review of Senator Ridley-Thomas' campaign contribution records over the past year reveals numerous donations by the California Medical Association, California Hospital Association, Pharmaceutical Research & Manufacturers Association, Blue Cross of California and several other medical physicians groups.

In addition, Ridley-Thomas has gone so far as to "request that the Conference Committee on the Budget Bill reduce the operating budget of the Board of Chiropractic Examiners to the amount of $1,542,000 for the 2007-08 fiscal year." This would cut the board's funding in half and leave all state employees working for the board jobless. His reason for making this request was to "ensure passage of this measure (SB 801)." He goes on to explain that "thus, if SB 801 is not enacted this year, the board's funding would run out around January 2008 and would be forced to cease operation."[4]

Historically, in situations such as this, the California Chiropractic Association (CCA) and the International Chiropractors Association of California (ICAC) would utilize

Cont'd on page 8

their political muscle to defeat bills attacking the chiropractic profession. The CCA, the larger of the two groups, is represented by a lobbyist with strong ties to the Democratic Party. In recent years, almost 80 percent of the CCA political action campaign (PAC) fund has been spent on the Democrats ($141,000 for Democrats vs. $38,000 for Republicans in 2005/2006; contributions for 2007 have not yet been reported).

But the CCA's approach to defeating these bills is confusing to many. It appears to be a "negotiate the damages," rather than declaring "war." Rather than oppose the bills outright, then-CCA President John Bueler Jr., DC, sent essentially identical letters to Eng and Ridley-Thomas **supporting** many of the proposed amendments in the bills. In these letters, President Bueler stated that the "CCA supports:[5,6]

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Cont'd from page 6

- authorizing the legislature to sunset and reconstitute the BCE;
- allowing the legislature to appoint the two public members; and
- requiring Senate confirmation of the governor's appointments.

Regarding the remaining two issues, Dr. Bueler stated: "Given the constant threats to the survival of the profession, CCA cannot support granting the Legislature open ended authority to make changes to the Act" and "Placing the BCE under DCA will not prevent problems inherent to a citizen-board structure. CCA supports an amendment to the Act to grant the Legislature the same, 'housecleaning' authority it has with other boards to sunset and re-establish the BCE when necessary."

When asked about the CCA's mixed-message approach, Bill Updyke, DC, current CCA president, defended the association's position: "As relates to the appointment process, we do not see a problem with allowing the legislature to have an approval process for some of the board appointees. That's applicable to other boards, and we believe that is a fair point. As for allowing the legislature to replace the board, that is a standard provision for the vast majority of boards that the legislature feels comfortable having. When they find a board is acting inappropriately, they want to be able to sunset it."

In the past, the CCA has been known to pull out all of the stops to kill a bill that threatened the practice of chiropractic. Rather than attempt to negotiate, previous CCA leaders would organize patient outcry, mobilize chiropractic students and put serious pressure on legislators. Those legislators who refused to respect CCA's position were often targeted for defeat in the next election.

Frustrated and confused by CCA's tepid approach to the current crisis, three members of the National Association of Chiropractic Attorneys (NACA) independently sent a letter to "Republican Members of the California Legislature" on June 4th. The letter urged "all Republican legislators to unanimously oppose this unneeded legislative power grab."[7] The letter was signed by Mike Schroeder, chairman of the California Republican Party (CRP) in 1997; Shawn Steel, CRP chairman from 2001-2003; and Keith Carlson, current CRP treasurer.

The California Senate voted on S.B.801 two days after receiving that letter. The vote was 24-16 in favor of passing the bill to amend the Chiropractic Act, only three votes more than the 21 votes required for passage. All 24 "yes" votes were cast by Democrats. The 16 votes against the bill were cast by 15 Republicans and one Democrat.

A day later, the California Assembly voted on the Assembly version of the bill (A.B.1137). The vote was 42-29 in favor of passing the bill, just a single vote over

Cont'd on page 18

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the 41 votes required for passage. The 42 "yes" votes were cast by 42 Democrats. Those against amending the Chiropractic Act included 27 Republicans and two Democrats.

The effort of sending out this single independent letter appears to have garnered the support of almost every Republican senator and assembly member. When asked if this letter was one of the reasons why there wasn't one Republican vote for either bill, CCA President Updyke replied: "I think it's a reasonable conclusion."

The Senate bill is now with the Assembly and the Assembly bill is now with the Senate. This is the last opportunity for the bills to be voted down before they go to Governor Schwarzenegger and then to the California voters. The CCA has announced that it is attempting to raise money through its "Californians to Protect Chiropractic Patient Rights" PAC to convince Californians to vote against the anticipated ballot initiatives. But most believe the chiropractic profession will be hopelessly outfinanced, as neither the CCA nor the ICAC has the money to reach and influence the 22 million eligible California voters on the same level as those who oppose the profession.

The people of California will likely be exposed to a barrage of embarrassing messages about the chiropractic profession, crafted by several well-funded special-interest groups. In addition to impacting chiropractic practice, these initiatives will likely tarnish chiropractic's image for years to come. In essence, chiropractic's only real opportunity to defeat this threat is to kill the bills **before** they are passed. Once on the ballot, chiropractic's demise is only a matter of money.

Cont'd on page 33

DC Chiropractic's California Crisis

Cont'd from page 18

When asked if the CCA had the political muscle with the Democratic legislators to deliver the six changed votes needed to defeat the bills (four in the Senate and two in the Assembly), CCA President Bill Updyke was unwilling to make a commitment:

"We've been very active and continue to be very active behind the scenes as relates to this. When you get at the exact numbers and specifics about this, we've been able to get all of the members very aware of this, and the initial vote that you see may not be reflected the next time it comes around because of our behind-the-scenes efforts.

"It's not a yes or no question, because I've had many conversations with elected officials that I consider to be good friends when they don't see things the way I do. It's impossible to go down that path. Legislators do actually make some very important decisions and they're independent. It's not necessarily going to go the way that you would expect."

The profession is left to draw one of two conclusions after considering the results of the initial voting on these bills and the CCA's efforts to impact those votes:

Essentially, chiropractic's only real opportunity to defeat this threat is to kill the bills before they are passed. Once on the ballot, chiropractic's demise is only a matter of money.

- If the CCA still hopes to change Democratic votes, was enough effort made to impact the voting of Democratic legislators in the first place? Was too little effort made initially and if so, is there enough time to pull out a victory?
- If the CCA can't deliver the six Democratic votes required to defeat the bills, what does that say about the CCA's ability to accomplish much of anything in Sacramento? Certainly, having a Democratic lobbyist and spending almost 80 percent of the PAC funds on Democratic legislators should yield more than three votes for what Dr. Updyke considers "the most significant thing facing the profession at this point in time."

References

1. A.B.1137 was introduced in the state Assembly on Feb. 23, 2007. S.B.801 was introduced in the state Senate on the same day. To view the history and current status of the legislation, visit **www.leginfo.ca.gov**.
2. Eng M. "What Is the Real Problem at the California Board of Chiropractic Examiners?" April 27, 2007. **www.californiaprogressreport.com/2007/04/what_is_the_rea.html**.
3. California Board of Chiropractic Examiners – Resolution No. 1-76. Passed March 1, 1976. **www.chiroweb.com/CA**
4. Letter from Sen. Ridley-Thomas to Assembly Budget Committee Chairman John Laird, May 31, 2007.
5. Letter from CCA President John Bueler Jr., DC, to Assemblyman Mike Eng, April 18, 2007. **www.calchiro.org/documents/AB1137Letter_000.pdf**.
6. Letter from CCA President John Bueler Jr., DC, to Sen. Mark Ridley-Thomas, April 18, 2007. **www.calchiro.org/documents/SB0801Letter_000.pdf**.
7. Letter from Mike Schroeder, Shawn Steel and Keith Carlson to "Republican Members of the California Legislature," June 4, 2007. **www.chiroweb.com/CA**

Written by ***DC* Staff**

BILL NUMBER: SB 77 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY MAY 21, 2007

INTRODUCED BY ~~Committee on Budget and Fiscal Review~~
Senator Ducheny

JANUARY 17, 2007

An act ~~relating to the Budget Act of 2007~~ *making appropriations for the support of the government of the State of California and for several public purposes in accordance with the provisions of Section 12 of Article IV of the Constitution of the State of California, and declaring the urgency thereof, to take effect immediately* .

LEGISLATIVE COUNSEL'S DIGEST

SB 77, as amended, ~~Committee on Budget and Fiscal Review~~ *Ducheny* . Budget Act of 2007.

This bill would make appropriations for support of state government for the 2007-08 fiscal year.

This bill would declare that it is to take effect immediately as an urgency statute.

~~This bill would express the intent of the Legislature to enact the Budget Act of 2007.~~

Vote: ~~majority~~ *2/3* .
Appropriation: ~~no~~ *yes* .
Fiscal committee: ~~no~~ *yes* .
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.00. This act shall be known and may be cited as the "Budget Act of 2007."

GENERAL GOVERNMENT

8500-001-0152--For support of Board of Chiropractic Examiners, payable from the State Board of Chiropractic Examiners Fund... ~~3,039,000~~ *1,519,000*

Schedule:
(1) 10-Board of Chiropractic Examiners..... ~~3,083,000~~ *1,541,000*
(2) Reimbursements..... ~~-44,000~~ *-22,000*

Provisions:
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in ~~Government Code~~ Section 13332.18 ~~.~~ *of the Government Code.*

COMPLETE BILL HISTORY

BILL NUMBER : S.B. No. 77
AUTHOR : Ducheny
TOPIC : Budget Act of 2007.

TYPE OF BILL :
Active
Urgency
Appropriations
2/3 Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

BILL HISTORY
2007
July 9 From Committee on Conference: Be adopted. (Ayes 4. Senators Ducheny and Machado and Assembly Members Laird and Leno. Noes 2. Senator Hollingsworth and Assembly Member Niello.)
May 29 Assembly appoints Conference Committee: Assembly Members Laird, Leno, and Niello.
May 29 Senate appoints Conference Committee: Senators Ducheny, Hollingsworth, and Machado.
May 29 Senate refuses to concur in Assembly amendments. (Ayes 0. Noes 37. Page 1102.)
May 24 In Senate. To unfinished business.
May 24 Read third time.Passed(Ayes45.Noes1. Page1626.)To Senate.
May 21 Unanimous consent granted to consider without reference to committee or file. Read 2nd time. Amended. To third reading.
Apr. 19 In Assembly. Read first time. Held at Desk.
Apr. 19 Read third time. Passed.(Ayes30.Noes6.Page639.)To Assembly.
Apr. 18 To Special Consent Calendar.
Apr. 16 Read second time. To third reading.
Apr. 12 Withdrawn from committee. Ordered placed on second reading.
Jan. 25 To Com. on RLS.
Jan. 18 From print. May be acted upon on or after February 17.
Jan. 17 Introduced. Read first time. To Com. on RLS. for assignment. To print.

BILL NUMBER: SB 54 AMENDED
BILL TEXT

AMENDED IN SENATE MAY 29, 2007

INTRODUCED BY Senator Ducheny

JANUARY 10, 2007

An act making appropriations for the support of the government of the State of California and for several public purposes in accordance with the provisions of Section 12 of Article IV of the Constitution of the State of California, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 54, as amended, Ducheny. 2007-08 Budget.

This bill would make appropriations for support of state government for the 2007-08 fiscal year.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.00. This act shall be known and may be cited as the "Budget Act of 2007."

8500-001-0152--For support of Board of Chiropractic Examiners, payable from the State Board of Chiropractic Examiners Fund... 3,039,000

Schedule:

(1) 10-Board of Chiropractic Examiners..... 3,083,000

(2) Reimbursements..... -44,000

Provisions:

1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Government Code Section 13332.18.

BILL HISTORY

2007

May 29 From committee with author's amendments. Read second time. Amended. Re-referred to Com. on B. & F.R.

Jan. 10 Introduced. Read first time. To Com. on B. & F.R.

How BCE Budget Cut Affects Chiropractic Doctors and Students

An Inside Account of Serving Consumers and Licensees with Drastically Reduced Resources

An Interview with Brian Stiger, BCE Executive Officer

Have you wondered about the impact of the 2007-08 fiscal year budget cut to the BCE? CCA sat down with BCE Executive Officer Brian Stiger to discuss what the funding reduction means to licensees and those seeking licensure. He offers insight to the operational adjustments being made at the BCE in continuing to carry out its mandate to protect the public health and safety, and provides suggestions for receiving services from the resource-reduced licensing board. Mr. Stiger began his career with the State of California in 1990, joining the state Department of Consumer Affairs in 1993. Recognizing his talents, in 2002 then-Governor Gray Davis appointed him bureau chief of the Bureau of Electronic and Appliance Repair. In 2004, Governor Arnold Schwarzenegger capitalized on his effectiveness by additionally appointing him as bureau chief of the Bureau of Home Furnishings and Thermal Insulation. In March 2007, Mr. Stiger was selected by the DCA to serve as interim executive officer of the BCE and in August of that year, the BCE hired him on a full-time basis in that capacity.

Q: Please tell us about the current fiscal year budget cut to the state Board of Chiropractic Examiners and its impact.

The board's budget was cut by one-half effective July 1, 2007. Given our drastically reduced resources, the board has had to take aggressive steps to live within its means while keeping the protection of the public's health and safety our foremost priority. But, let me underscore, even with limited resources, this board is committed to and will do all it can to protect consumers from the most egregious violators.

Among the steps instituted has been a severe reduction in board staff, from 15 to six persons effective January 7, 2008. We quite literally have to shift staff between enforcement and licensure activities on almost a daily basis to ensure we are doing our job in protecting the consumer. As you know, enforcement activities for the protection of consumers is our highest priority, but given the substantial funding reduction, we have to prioritize those activities and focus resources on the most egregious violators. As a result, we are not able to take the number of enforcement actions the board would typically pursue. Also, we have eliminated for now petition hearings for requesting license reinstatement and early termination of license probation.

Q: Mr. Stiger, what do the reduced board resources mean for those applying for licensure?

The board has long taken great pride in processing applications for licensure in a timely manner. Part of our consumer protection role is to ensure that applicants meet all of the requirements for licensure, a time-consuming but essential process. Unfortunately, because of lack of staff, graduating students should expect delays in having their application processed and license issued. This delay could be up to 60 days or even longer than the normal processing time.

Q: Is there anything new license applicants can do to minimize the length of time between their licensure application and the granting of their license?

Yes. Applicants should make sure their application is completed fully, clearly and accurately and that all other information necessary is submitted with the application. Even when fully staffed, incomplete applications or applications containing unclear information can cause delays in the process of issuing a license. Also, get the application as soon as possible and begin completing it along with gathering the other materials necessary. For instance, we require fingerprints to be submitted for licensure – get those done early. That way, it may essentially be complete at the time of graduation from a chiropractic college. Along the same line, we also receive numerous telephone and e-mail questions from students, often times just before they are sending in their application or sitting for the California Law and Professional Practice exam. Again, due to

lack of staffing, we are not able to respond to those questions as quickly as we have been able to in the past. By beginning to complete the application early, they likewise can contact the board with their questions earlier hopefully leading to a timely response relative to submitting the license application, taking the exam or any other matter. I also strongly encourage students to go to our Web site at www.chiro.ca.gov. We just redesigned and enhanced the site – before budget cuts. For instance, we receive many questions about the availability of exam study guide material. At our new site, they will find information on subject areas they should review in preparation for the exam, in addition to information on how to apply for a license, fees required, fingerprints needed and other materials required to be submitted. I also encourage students to utilize the many other resources they have available for questions such as their college professors.

Q: Is the licensing exam affected in any way by the board's budget situation?

Fortunately, the offering of the licensing exam should not be affected. The board already has in place a contract with an outside firm to proctor the California Law and Professional Practice exam for new licensees.

Q: We imagine the board's funding cut will also impact the processing of license renewals. Do you have any thoughts on what doctors can do to ensure as timely as possible license renewal?

As I have indicated, the budget cuts are impacting all the operations of the board. Because of staffing shortfalls, doctors should expect a substantial delay in the processing of their license renewal. But, doctors can take steps to ensure to the extent possible the timely renewal of their license. For instance, it is imperative that they submit their license renewal forms as early as possible. Like new licensees, they should take care that the license renewal form is completely and clearly filled out and the required fee is submitted with form. In that regard, it might behoove licensees to complete their required 12 hours continuing education as quickly as possible in their licensure year so they can submit their license renewal request as soon as possible. If doctors have met the requirements for license renewal yet do not have their renewal notice from the board, I encourage them to visit the board's Web site and download and submit the form "Replacement License Renewal Form & Instructions."

Q: Despite getting license renewal application material to the board early, what if a doctor's license lapses because of the unavoidable processing delays you mention?

When we receive a license renewal application, we deposit the renewal fees right away. The date the fees are received in this office is the date we use to determine if a licensee renewed timely. Barring any problems with the paperwork submitted or other issues putting in question a licensee's eligibility for license renewal, we will consider the doctor to have made a good faith effort to renew his or her license in a timely manner. But again, I cannot stress enough that doctors should do all they can to get their license renewal materials to the board as early as they can before the expiration of their license.

Q: Is there anything else the chiropractic profession and consumers should know relative to the board's current operations?

First off, I ask for everyone's patience. We are working with the Legislature to resolve our budget shortfall. Consumers and doctors need to know that this board takes its responsibility for the protection of the public seriously and that staff is doing all it can to carry out that mandate in a timely and effective manner. Second, please use the board's newly revised Web site. It is available 24/7 and contains much information on virtually every aspect of our regulatory role and answers to commonly asked questions. It also has posted to it a variety of downloadable forms that are necessary to be completed for various board actions, such as consumer complaint forms, address change requests, satellite office certification and the like.

Alert: Renew Your Chiropractic License Early

As reported elsewhere in this newsletter (see "How BCE Budget Cut Affects DCs and Students"), the state Board of Chiropractic Examiners (BCE) is facing severe financial challenges this fiscal year that could likely have an impact on your license renewal. Specifically, since the BCE Web site is the primary vehicle used to verify licensure, it is important that you renew your license early.

For example, as doctors of chiropractic who are contracted providers with managed care organizations (MCO) and carriers are aware, a part of network participation is the requirement that you have a current and valid license to practice. In addition, due to the accreditation standards of Utilization Review Accreditation Commission (URAC) and National Committee for Quality Assurance (NCQA), the MCOs and carriers must be able to verify that a doctor's license is in good standing. If through third-party verification your license is not in good standing – in this case, the BCE Web site is the primary vehicle used by MCOs and carriers to verify licensure – termination of your participation is likely to occur. Further, the MCOs and carriers are obligated to inform their members - your patients – of your termination as a participating provider. Given the reduced BCE resources, it is suggested the contracted providers take all appropriate steps necessary to renew their licenses at the earliest possible date to avoid network termination.